

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rule making related to suspension and reinstatement of state funds
and providing an opportunity for public comment**

The Management Department hereby proposes to adopt new Chapter 16, “Suspension and Reinstatement of State Funds,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 27B.5 and 27B.6.

Purpose and Summary

This proposed rule making will establish procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27B and to reinstate eligibility to receive state funds when a local entity comes into compliance with Iowa Code chapter 27B. This rule making will establish the process by which the Department receives a final judicial determination that the local entity is out of compliance with Iowa Code chapter 27B and is ineligible to receive state funds and funds are denied. This rule making will also establish the process by which the Department receives the declaratory judgment that the local entity is in full compliance with Iowa Code chapter 27B and is eligible to receive state funds and state funds are reinstated.

Fiscal Impact

At this time, it is not possible to estimate the total fiscal impact of Iowa Code sections 27B.5 and 27B.6, and this rule making has no fiscal impact to the State beyond that of the Iowa Code sections it is intended to implement.

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 541—1.3(8).

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 August 16, 2022. Comments should be directed to:

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Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.281.3322
Fax: 515.242.5897
Email: joel.lunde@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:

Adopt the following new 541—Chapter 16:

CHAPTER 16
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—16.1(27B) Denial of state funds.

16.1(1) Definitions. For purposes of this chapter:

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27B.

“*Department*” means the Iowa department of management, pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general’s office finding a local entity to have violated the provisions of Iowa Code chapter 27B.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30, as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the governing body of a city or county and includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney. “*Local entity*” includes local city and county boards and commissions in which membership on the board or commission is the result of an appointment by the city council or the county board of supervisors. “*Local entity*” does not include local city and county boards and commissions whose membership is determined by election or is specifically set forth by the Iowa Code. “*Local entity*” does not include multijurisdictional boards and commissions in which a city or county is one of multiple local government members.

“State agency” means any board, commission, department or other administrative office or unit of the executive branch of the state as defined by Iowa Code section 7E.4.

“State funds” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as described by Iowa Code section 8A.504.

16.1(2) Denial of state funds. State funds shall be denied to a local entity pursuant to Iowa Code chapter 27B by all state agencies for each state fiscal year that begins after the date on which a final judicial determination is made in a civil action brought pursuant to Iowa Code section 27B.4(6).

a. The department will send written notification to a state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

b. If a local entity receives state funds through a county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

c. A state agency will contact a federal granting agency in writing to determine how to administer federal funds when state match funds are denied. The state agency may be required to discontinue drawing federal funds or issue repayments as instructed by the federal granting agency.

d. Funds will continue to be denied until issuance of a declaratory judgment.

541—16.2(27B) Reinstatement of eligibility to receive state funds. Upon issuance of a declaratory judgment, the local entity’s eligibility to receive state funds is reinstated.

16.2(1) The department will send written notification to a state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

16.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

16.2(3) A state agency will contact a federal partner in writing to determine how to reinstate a drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code sections 27B.5 and 27B.6.