Regulatory Analysis

Notice of Intended Action to be published: 543—Chapter 2
"Tort Claims"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 25, 24.26, 24.30, 24.31 and 24.32

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 25 and sections 24.26, 24.30, 24.31 and 24.32

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024 10 a.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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State Capitol, Room G13
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Des Moines, Iowa 50319
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Purpose and Summary

The State Appeal Board is proposing to rescind Chapter 2 and replace it with new rules in a new structure. The current structure of the chapters in [543] includes some background information about the Board in existing Chapter 1 and other components in existing Chapter 2. Existing Chapter 1 also includes rules addressing how individuals submit tort claims. The blending of concepts in different chapters was deemed confusing and unworkable going forward, so Chapters 1 and 2 are proposed to be replaced, with the new Chapter 1 setting out general background information about the Board and the new Chapter 2 dedicated to tort claims, which represent the highest volume of appeals seen by the Board. This restructuring is intended to make it easier for citizens seeking to interact with the Board to find the information they need to do so.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Only individuals who submit claims bear costs associated with the rules. The rules provide minimally necessary guidance for those seeking to interact with the Board.

- **Classes of persons that will benefit from the proposed rulemaking:**

The proposed rulemaking simplifies the existing rules, which benefits the public by removing burdens and easing access to the Board.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The rulemaking would not have a quantitative impact on citizens or any other entity.

- **Qualitative description of impact:**

The proposed rulemaking simplifies the existing rules and removes all restrictive words and phrases from the rules, which should provide those who access the rules a better qualitative experience when interacting with the Board.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

This rulemaking removes any unnecessary statements in the rules and simplifies the text where possible. There are no additional implementation or enforcement costs borne by any agency because of the updates to the rules.

- **Anticipated effect on state revenues:**

State revenues, as well as implementation and enforcement costs, do not change based on this cleanup of the Board's rules. It is not anticipated that there will need to be any system changes or other changes in policy of any kind.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Inaction is not permissible because the rules must be addressed pursuant to Executive Order 10. The benefits of the rulemaking should be that taxpayers accessing the Board should have an easier time because the rules will be easier to follow. The proposed rulemaking also removes some unnecessary burdens from the rules, such as the antiquated obligation to have submissions to the Board verified.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

All rules were evaluated with the goal of reduction, elimination and simplification of the existing rules. No less intrusive methods have been identified along the way. No less costly alternatives were identified in the process.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board's Executive Secretary considered input from staff about how much detail to include in the rules concerning claims submissions. The concept of offloading all of the claim detail to a form was vetted, but the Executive Secretary ultimately decided to leave the tort claim detail in the rules to ease the burden on citizens should they elect to submit a tort claim in a fashion other than on a Board form. All rules were evaluated to make sure they only required the acquisition of the information necessary from citizens to facilitate consideration of a tort claim. Ultimately, the rules were deemed minimally necessary to provide citizens the information they need to communicate with the Board.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

There are no alternative methods other than potentially removing the chapter and defaulting submission obligations to a Board form, which was deemed not to be a viable solution as noted above. The Board must comply with Executive Order 10.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking does not have any substantial impact on small business. If anything, the proposed rules will have a benefit to small business in the sense that the rules will make it easier for small businesses to make claims against the State through the Board.

Text of Proposed Rulemaking

ITEM 1. Rescind 543—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
TORT CLAIMS

543—2.1(669) Form of claims.

2.1(1) *Place of filing.* Tort claims will be filed with the executive secretary at the board's address. The board may make forms available to facilitate submission of a claim.

2.1(2) *Names and signatures.* To be valid, a claim needs to be legible and state the name, address, telephone number, and age of the person making the claim; the name, address and telephone number of the claimant's attorney preparing the claim, if any; and their signatures.

2.1(3) *Designation by number.* The executive secretary will assign a number to each claim. Thereafter, claims may be referred to by the assigned number.

543—2.2(669) Content. Valid claims need to set forth the following information:

2.2(1) Whether the claim is against an employee or the state, including the name of the employee and the department where the employee is employed. Separate claims need to be filed for each type of claim by each claimant.

2.2(2) All known facts and circumstances regarding the damage or injury, identifying persons and property involved and the cause in detail.

2.2(3) In connection with personal injuries or death, a detailed description of the nature, extent and duration of all injuries, including:

a. The names and addresses of all physicians, surgeons, dentists or other medical personnel providing treatment or services.

b. The dates and places of the treatments or services.

c. The date of the final treatment or service and the name of the physician or other person providing treatment or services.

d. If treatment or services are continuing, the name and address of each physician or other person rendering treatment or service and the nature of the treatment or service.

e. The name and address of any hospital in which the claimant is or was confined and the dates of admission and discharge.

f. The name and address of all persons who have taken medical imaging of the claimant, the dates of such medical imaging and a statement as to what the medical imaging purportedly established.

g. A statement as to any preexisting injury, illness or condition; the nature of the preexisting injury, illness or condition; and the name and present address of each physician or other person who has rendered or who is rendering treatment or services for such disability.

h. If other loss of income, profit or earnings is claimed:

(1) The amount of such loss or losses and how computed, the source of such loss, the date of deprivation thereof, the period of time, and whether the loss is continuing.

(2) The name and address of present employer, if the claimant has returned to work; the position or job held; the nature of the work being performed; and present weekly wages, earnings, income or profits.

(3) Itemization in detail of all moneys expended or expenses incurred in connection with this claim.

(4) Names and addresses of all persons who have personal knowledge of any facts relating to the claim.

2.2(4) In connection with property damage or loss and concerning a motor vehicle:

a. Vehicle's make, model, and year.

b. Purchase date and price paid.

c. Cost estimates for repairs or actual costs of repairs with copies of estimates or bills.

d. Specific part or parts allegedly damaged.

e. Names and addresses of all persons having personal knowledge of any facts relating to the claim.

2.2(5) In connection with other property damage:

a. Nature and description of other property that is the subject of the claim, separately listed.

b. Method by which this other property was acquired. If purchased, then the name of the person or place from which purchased, the price, the date, and the usage made of the property.

c. Depreciated value at the date of damage or loss.

d. Documentation of repair costs paid or repair estimates.

e. Names and addresses of all persons having personal knowledge of any facts relating to the claim.

2.2(6) The amount of compensation requested from the board.

543—2.3(669) Attorney general. The executive secretary will convey each claim to the special assistant attorney general assigned to the board. The special assistant attorney general will investigate the claim and is empowered to administer oaths, take testimony, and conduct discovery in accordance with the Iowa Rules of Civil Procedure. The special assistant attorney general may compel the attendance of witnesses and certify to any district court for contempt.

543—2.4(669) Notification. The special assistant attorney general will notify the claimant or the claimant's attorney, in writing, of the board's determination and any award.

543—2.5(669) Release. The claimant is obligated to execute a release of the claim and covenant not to sue in consideration of acceptance of the award.

543—2.6(669) Acceptance. Return of the executed release and covenant not to sue will constitute acceptance of the award in full settlement of the claim.

543—2.7(669) Warrant. Upon acceptance of the award, completion of the release, and a determination by the board that attorneys' fees requested are reasonable, the board will issue a warrant in the agreed amount, payable to claimant and the claimant's attorney.

543—2.8(669) Withdrawal. Submitted claims may be withdrawn at any time through written notice addressed to the board at the board's mailing address.

These rules are intended to implement Iowa Code chapter 17A and section 669.3(3).