

10A.601 Employment appeal board — created — duties.

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under chapter 8A, subchapter IV, and chapters 80, 88, 91C, 96, and 97B.

2. The employment appeal board is composed of three members appointed by the governor, subject to confirmation by the senate, to six-year staggered terms beginning and ending as provided in section 69.19. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. No more than two members shall be members of the same political party. A vacancy in membership shall be filled in the same manner as the original appointment. A member of the appeal board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office. The members of the employment appeal board shall receive an annual salary as set by the governor.

3. The members of the appeal board shall select a chairperson and vice chairperson from their membership. The appeal board shall meet at least once per month but may meet as often as necessary. Meetings shall be set by a majority of the appeal board or upon the call of the chairperson, or in the chairperson's absence, upon the call of the vice chairperson. The employment appeal board, subject to the approval of the director, may appoint personnel necessary for carrying out its functions and duties.

4. The appeal board may on its own motion affirm, modify, or set aside a decision of an administrative law judge on the basis of the evidence previously submitted in the contested case, or direct the taking of additional evidence, or may permit any of the parties to the decision to initiate further appeals before the appeal board. The appeal board shall permit further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

5. The appeal board may order testimony to be taken by deposition, and may compel persons to appear and testify and to produce books, papers, and documents in the same manner as witnesses may be deposed and compelled to appear and testify and produce documentary evidence before the district court. In the discharge of the duties imposed by this chapter, the chairperson of the appeal board and any duly authorized representative designated by the appeal board, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas. Persons deposed or compelled to testify or produce documentary evidence shall be allowed the same fees and traveling expenses as allowed witnesses in the district court.

6. The appeal board shall adopt rules pursuant to chapter 17A to establish the manner in which contested cases are to be presented, reports are to be required from the parties, and hearings and appeals are to be conducted. The appeal board shall keep a full and complete record of all proceedings in connection with a contested case. All testimony at a hearing shall be recorded, but need not be transcribed unless the contested case is further appealed. The appeal board shall retain the record for at least sixty days following the final date for appeal of a contested case. A decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court. Any party to a contested case may appeal the decision to the district court.

7. An application for rehearing before the appeal board shall be filed pursuant to section 17A.16, unless otherwise provided in chapter 8A, subchapter IV, or chapter 80, 88, 91C, 96, or 97B. A petition for judicial review of a decision of the appeal board shall be filed pursuant to section 17A.19. The appeal board may be represented in any such judicial review by an attorney who is a regular salaried employee of the appeal board or who has been designated by the appeal board for that purpose, or at the appeal board's request, by the attorney general. Notwithstanding the petitioner's residency requirement in section 17A.19, subsection 2, a petition for judicial review may be filed in the district court of the county in which the petitioner was last employed or resides, provided that if the petitioner

does not reside in this state, the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the appeal board shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire records of a contested case. The appeal board may also certify to the court, questions of law involved in any decision by the appeal board. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment, or decree of the district court to the supreme court.

86 Acts, ch 1245, §515; 88 Acts, ch 1025, §1; 88 Acts, ch 1162, §10; 88 Acts, ch 1109, §3; 2003 Acts, ch 145, §129; 2004 Acts, ch 1107, §1, 30

Referred to in §80.15, 88.3, 88.9, 91C.8, 96.6, 96.19, 97B.27

[P] Confirmation, see §2.32