

**MINUTES OF THE DECEMBER 2007 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, December 11, 2007, in Room 22, State Capitol, Des Moines, Iowa.
- Members present: Senator Michael Connolly, Chair; Senator John P. Kibbie, and Representative Marcella Frevert. Also present via telephone were Representative Philip Wise, Vice Chair; Senators Jeff Angelo, Thomas Courtney, and James Seymour; and Representatives David Heaton and Linda Upmeyer. Representative David Jacoby was not present.
- Also present: Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; fiscal staff, caucus staff and other interested parties.
- Convened Sen. Connolly convened the meeting at 11:10 a.m.
- Fiscal report** Sue Lerdal presented the LSA fiscal report.
- UTILITIES DIVISION** Mary Whitman represented the division.
- ARC 6418B No action on ch 44, certificates of franchise authority for cable and video service. Ms. Whitman explained why the comment period had been extended and confirmed that the final rules align with the statutory language. Ms. Whitman indicated that the board cannot predict how many applications might be received.
- VETERANS AFFAIRS DEPARTMENT** Patrick Palmersheim and Kent Hartwig represented the department.
- ARC 6379B No action on ch 12, county grant program for veterans. Members encouraged the department to make a recommendation regarding proposed legislative changes.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Margaret Thomson represented the department.
- ARC 6385B No action on 90.26 concerning temporary grain storage facilities.
- INSURANCE DIVISION** Rosanne Mead represented the division.
- ARC 6205B Ms. Mead reported that the division and the independent agents have reached agreement on producer training requirements and that amendments will be emergency adopted and filed to become effective upon expiration of the 70-day delay. Rep. Wise commended the commissioner for addressing the issues. Both Rep. Heaton and Sen. Connolly suggested that the division establish minimum standards for long-term care products sold in Iowa.
- Committee business** Rep. Frevert moved approval of the minutes of the November 2007 meeting; the minutes were approved. The date for the next meeting was set for Monday, January 7, and the committee decided to meet on the first Friday of each month during the legislative session.
- PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE** Scott Scheidel represented the board. Patrick Rounds of Petroleum Marketers Management Insurance Company (PMMIC) was also present.
- ARC 6423B Subrule 11.3(11) sets out provisions regarding reimbursement of claims for the removal of eligible underground storage tanks. Mr. Rounds questioned the language of paragraph "b" that limits eligibility to claims that remained continuously eligible for benefits without disqualification. The board has interpreted this provision to exclude sites that were transferred to PMMIC for corrective action. Mr. Rounds expressed concern that these insured sites are being denied a benefit that the legislature provided for the removal of underground storage tanks. Mr. Scheidel agreed to stay action on the sites that are in question and work with Mr. Rounds.
- Motion to delay Sen. Connolly made a motion to delay 11.3(11)"b" until January 11, 2008, so that the parties have an opportunity to resolve conflicting interpretations.
- Motion carried The motion carried; the December 26, 2007, effective date of 11.3(11)"b" is delayed until January 11, 2008.
- REVENUE DEPARTMENT** Jim McNulty and Dale Hyman represented the department.
- ARC 6403B No questions on amendments to chs 42 and 52 pertaining to tax credits.
- ARC 6402B No questions on amendments to chs 42 and 52 concerning wage-benefits tax credits.
- ARC 6404B No questions on amendments to chs 46 and 48 concerning withholding and composite returns.
- ARC 6406B No questions on amendments pertaining to property tax.
- PUBLIC HEALTH DEPARTMENT** No agency representative was present.
- ARC 6427B, ARC 6428B, ARC 6426B, ARC 6421B, ARC 6422B, and ARC 6425B were not reviewed at this meeting.

- SECRETARY OF STATE** Michael Mauro and Linda Langenberg represented the office. Margaret Buckton represented the Iowa Association of School Boards.
- ARC 6405B Proposed amendments to ch 21 provide for voter registration on election day. Discussion related to the potential for a person to vote more than once in the same election. Secretary Mauro explained that although a vote cast cannot be invalidated, there are severe penalties for voter fraud. At the request of Rep. Upmeyer, Secretary Mauro outlined how the \$30 million from HAVA was distributed.
- ARC 6420B Proposed amendments to ch 21 pertain to local sales and services tax elections for school infrastructure projects. Ms. Buckton commented that the association has concerns regarding the printing of the revenue purpose statement on the ballot and the potential of having to hold more than one election.
- ARC 6424B No questions on proposed 21.820 concerning gambling elections.
- ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF** Nancy Landess and Doug Lewis represented the department.
- ARC 6393B No questions on ch 35, regional tourism marketing grant program.
- ARC 6392B No questions on ch 105, demonstration fund.
- ENERGY INDEPENDENCE, OFFICE OF** Royce Stanley, Bob Mulqueen, and Brian Crowe represented the office.
- ARC 6411B No questions on proposed organizational and procedural rules, chs 1 to 4 and 51 to 55.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department and introduced legislative liaison Molly Kottmeyer.
- ARC 6391B No action on proposed documentation requirements for Medicaid providers. Ms. Freudenberg explained that the proposed requirements include a checklist geared primarily to providers of nontraditional services and clarified that documentation must be provided upon audit, not upon submission of the claim. Sen. Connolly inquired about the appeal process, which does not allow for submission of new documents. Ms. Freudenberg responded that new documents may be allowed by the administrative law judge or during the reconsideration process.
- ARC 6370B No questions on amendments to ch 11 concerning trafficking in food assistance benefits.
- ARC 6390B No questions on proposed 65.28(19), the mini-simplified food stamp program.
- ARC 6372B No questions on the amendment to 75.1(39)“b” concerning Medicaid coverage for working persons with disabilities.
- ARC 6378B Proposed amendments to ch 78 pertain to Medicaid coverage for prescribed outpatient drugs. Ms. Freudenberg advised Rep. Heaton that nothing in these amendments would affect psychotropic drugs, but she agreed to check on the comments he has been receiving in that regard.
- ARC 6368B No questions on increase in Medicaid payment for inpatient services in a psychiatric medical institution for children.
- ARC 6412B No questions on clarifications and technical amendments to HAWK-I program.
- ARC 6373B No questions on amendments to ch 92, IowaCare program, regarding the hardship exemption and eligibility of newborns.
- ARC 6374B No questions on the transportation allowance for the PROMISE JOBS program.
- ARC 6375B No questions on amendments to ch 98 pertaining to withholding of income to collect court-ordered child support.
- Special review No questions on emergency amendments to chs 51 and 52 to implement the 2.3 percent cost-of-living increase for the state supplementary assistance program.
- ENVIRONMENTAL PROTECTION COMMISSION** Jon Tack and Wayne Gieselman represented the commission. Other interested parties included Cynthia Turkle of Turkle-Clark Environmental Consulting and Hal Morton of Des Moines County Regional Solid Waste Commission. Ken Herring represented the natural resource commission.
- Special review Mr. Herring advised the committee that the natural resource commission is filing an emergency rule-making document to allow an additional three days in gun seasons for antlerless deer.
- ARC 5999B The 70-day delay expired on December 10, 2007; these rules are in effect. Mr. Gieselman highlighted the four years of work that went into the adoption of these rules, which included public hearings across the state; completion of a regulatory analysis; review by an outside consultant; meetings with federal EPA representatives; a presentation by Dr. Simkins, a groundwater expert; numerous appearances before the ARRC; and a meeting with Sen. Gronstal. Mr. Gieselman reported that Sen. Gronstal asked that the department prepare a procedural document that includes criteria for approval of modeling proposed by facilities.

Environmental Protection Commission (continued)

Rep. Wise asked about 113.2(8); Mr. Tack responded that compliance with all other federal, state, and local laws is necessary whether or not such language is included in the rules. Mr. Tack stated that paragraph “c,” which was not included in the Notice of Intended Action, affords approved facilities that have a bottom liner and a leachate system an additional three years in which to come into compliance with the new rules. Rep. Wise interpreted the application of this requirement to facilities that had been previously approved as a retroactive application of the rule. Mr. Tack responded that the department is not changing past approvals but is setting a requirement about where waste can be deposited after 2010.

Mr. Morton commented that subrule 113.7(1) of the former chapter stated that sanitary disposal facilities designed and constructed in accordance with the rules in effect at the time of construction would not be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that the facilities are causing pollution. Mr. Tack stated that groundwater contamination has been detected at Mr. Morton’s facility as well as at a number of other landfills in this state. Ms. Turkle indicated that she and many landfill operators in the state consider themselves environmentalists even though they are not in agreement with the department on these rules.

Motion to object Rep. Wise moved an objection to 113.2(8); Sen. Courtney seconded the motion. After Mr. Royce explained the ramifications of an objection, a roll call vote was requested.

Motion carried The motion carried with Sen. Angelo, Sen. Courtney, Rep. Heaton, Sen. Seymour, Rep. Upmeyer, and Rep. Wise voting “Aye” and Sen. Connolly, Rep. Frevert, and Sen. Kibbie voting “Nay.”

Adjourned The meeting was adjourned at 3:06 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Michael Connolly

Vice Chair Philip Wise