

**MINUTES OF THE SEPTEMBER 2008 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday, September 9, 2008, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Michael Connolly, Chair, and Representative Philip Wise, Vice Chair; Senators Jeff Angelo, Thomas Courtney, John P. Kibbie and James Seymour; Representatives Marcella Frevert, David Heaton, David Jacoby, and Linda Upmeyer were present.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Deborah Svec-Carstens, Assistant Counsel to the Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested persons.

Convened Sen. Connolly convened the meeting at 8:30 a.m.

Fiscal overview Sue Lerdal presented the LSA fiscal report.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Melanie Johnson, Stoney Harris, Gail Kotval, Ken Boyd and Nichole Warren represented the department.

ARC 7069B No action on amendments regarding eligibility for the physical infrastructure assistance program (PIAP). Ms. Warren noted that the department establishes performance measures for projects that are funded under PIAP. Discussion related to situations in which assistance may be provided without a requirement for the creation and retention of jobs.

ARC 7068B Ms. Johnson stated that the department will terminate these proposed amendments to the targeted jobs withholding tax credit program and issue a new notice of intended action to incorporate changes approved by the board. Rep. Wise concurred with the department's decision to renotice the amendments, but expressed concern about the local match requirement and concern that the department may have implemented a change in policy prior to the adoption of rules. Ms. Johnson responded that because of the board's increased attention to local match, the department is becoming more aggressive in negotiating local match and noted that this pilot project program differs from the other programs because the department is not a party to the contract. There was discussion regarding possible referral to the legislature.

ARC 7067B No questions on proposed 103.1 to 103.13, information technology training program.

ARC 7065B No questions on proposed 108.1 to 108.8, targeted industries student competition fund.

ARC 7066B No action on proposed 109.1 to 109.9, career awareness fund.

ARC 7074B No action on proposed chs 311 to 314 regarding the renewable fuel infrastructure program. Discussion related to tank wagons, blender pumps, and whether incentives are working. Ms. Johnson agreed to provide information about the applications that have been received and to look into why neighboring states have so many more blender pumps than Iowa.

TRANSPORTATION DEPARTMENT Tammy Nicholson and Diane McCauley represented the department. Patrick Hendricks represented the United Transportation Union.

ARC 7003B Proposed ch 813 pertains to close-clearance warning signs along railroad tracks. Mr. Hendricks commented that the proposed rules are too weak and urged the department to adopt the standards of the American Railway Engineering and Maintenance of Way Association. Ms. McCauley acknowledged receipt of written comments from the association but indicated that most of the comments exceeded the scope of the legislation. Sen. Connolly encouraged the department to work with the affected parties.

ENVIRONMENTAL PROTECTION COMMISSION Elaine Douskey and Dave Wornson represented the department. Scott Scheidel represented the UST Fund Board.

ARC 6892B Ms. Douskey reported that the department and the underground storage tank fund board are working on a 28E agreement to study the risk to public water supply wells. Mr. Scheidel expressed optimism that compromise can be reached. Mr. Royce confirmed that these rules, which are under a 70-day delay, will appear on the October agenda.

HISTORICAL DIVISION Kristen Vander Molen represented the division.

ARC 7085B No action on the emergency grant program for disaster relief. Ms. Vander Molen noted that one-half of the appropriation to the historic site preservation grant program is being directed to emergency stabilization grants. Sen. Connolly commended the division's efforts.

EDUCATION DEPARTMENT Carol Greta represented the department.

- ARC 7093B No questions on 17.10, method of finance regarding open enrollment students.
- ARC 7090B No questions on proposed amendments to chs 21 and 24 regarding quality faculty committee and accreditation standards for community college faculty. Discussion concerned community colleges whose part-time instructors are not covered by a collective bargaining agreement, i.e., Indian Hills Community College and North Iowa Area Community College. Ms. Greta agreed to respond to the committee regarding the requirement for union representation for part-time faculty to be eligible for the supplemental salary distribution.
- ARC 7094B No action on amendments to ch 56 concerning the Iowa self-employment program.
- ARC 7092B No questions on proposed amendments to ch 84 pertaining to funding for National Board Certification teachers in Iowa.

INSPECTIONS AND APPEALS DEPARTMENT Steve Mandernach and Dean Lerner represented the department.

- ARC 7076B No questions on 31.1(8) and 31.7 concerning mobile food units/pushcarts.
- ARC 7075B Industry concerns regarding notification of an occurrence and determination of class of violation have been resolved. Sen. Kibbie commended the department for working with concerned parties.

INSURANCE DIVISION Angela Burke Boston and Matt Hargrafen represented the division. Other interested parties included David Root of Medco Health Solutions and Bill Wimmer on behalf of the Iowa Pharmacy Association.

- ARC 7082B Ms. Burke Boston reported that ch 59, pharmacy benefits managers, includes changes from the notice in regard to the effective date of the timely pay provisions and in regard to the appeals process and termination provisions. Mr. Root voiced concerns about three subrules that relate to payment of claims pending appeal, the independent third-party review, and termination of contracts. Following discussion, members asked the division to work with representatives of the PBMs and the pharmacy association to clarify the provisions in question.
- Motion to delay Sen. Angelo moved a 70-day delay on subrules 59.6(3), 59.6(5) and 59.7(6).
- Motion carried The motion carried on a vote of 9 to 1. The September 17, 2008, effective date is delayed for 70 days.

- ARC 7105B No questions on ch 95 regarding preneed life insurance.

RACING AND GAMING COMMISSION Karyl Jones represented the commission.

- ARC 7060B No action on proposed amendments to chs 5, 6, and 10 to 12.

MEDICINE BOARD Ann Mowery represented the board.

- ARC 7080B No questions on amendments to chs 1 and 25 regarding appointment of alternate board members for contested cases.
- ARC 7049B No questions on proposed amendments to update citations in chs 1 to 3, 8 to 11, 13, 16, 17, 23, and 26.
- ARC 7077B No questions on amendments to ch 8 concerning verification of physician licensure and fees for public records.
- ARC 7048B No action on proposed amendments to 9.1 and 9.2 concerning definition and supervision of an observer. Discussion related to a patient's right to refuse an observer and how the rules align with HIPAA provisions.
- ARC 7073B No questions on resident physician licensure.
- ARC 7078B No questions on amendments pertaining to audits of continuing education and mandatory training for the identification and reporting of child abuse and dependent adult abuse.
- ARC 7050B Ch 12 provides for denial of applications for issuance or renewal of a license due to nonpayment of state debt. Rep. Upmeyer expressed concern that action may be taken during the pendency of an appeal.
- ARC 7079B No questions on amendments to ch 25 concerning the definition of "appear personally."

PUBLIC SAFETY DEPARTMENT Mike Coveyou represented the department.

- ARC 7108B No questions on amendments to require dual sensor smoke detectors for new and replacement smoke detectors.
- ARC 7062B No questions on amendment to 221.3(1) to prohibit cardboard gas cans.
- ARC 7111B No action on ch 277, which provides for certification of alarm system contractors and installers and applies to fire, security and nurse call alarm systems.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department.

- ARC 7059B No action on proposed amendments pertaining to medical assistance for children in court-approved subsidized guardianship homes.
- ARC 7110B No action on amendments to align procedures across FIP and Medicaid programs.
- ARC 7058B No questions on proposed amendments to ch 78 in response to federal regulations affecting Medicaid coverage of local education agency expenses for transportation.
- ARC 7061B No questions on proposed amendments to staff training requirements for child care centers and child development homes.
- ARC 7109B No questions on proposed 184.9, family support subsidy.

PUBLIC HEALTH DEPARTMENT Barb Nervig represented the department.

- ARC 7023B Ch 50 is under a 70-day delay. Ms. Nervig reported that the department and the dental association have reached agreement on some issues. Remaining issues will be addressed at a meeting scheduled later in the week. Ms. Nervig expressed optimism that an agreement can be reached before the October ARRC meeting.

Committee business The minutes of the August 2008 meeting were approved. The next meeting was set for Tuesday, October 14, 2008.

Adjourned The meeting was adjourned at 11:58.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Michael Connolly

Vice Chair Philip Wise