

LEGISLATIVE COUNCIL

June 25, 2018

Chairperson: Senator Jack Whitver

Vice Chairperson: Speaker Linda Upmeyer

Committees. The Legislative Council approved recommendations reported by the Service Committee of the Legislative Council and the Studies Committee of the Legislative Council, and received an annual report from the Legislative Tax Expenditure Committee. See briefings in this issue for the Service and Studies committees.

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Internet Site: www.legis.iowa.gov/committees/committee?ga=87&groupID=703

SERVICE COMMITTEE OF THE LEGISLATIVE COUNCIL

June 25, 2018

Chairperson: Speaker Linda Upmeyer

Vice Chairperson: Senator Jack Whitver

Overview. The committee received information and made recommendations concerning the policies and procedures of the Legislative Council, the nonpartisan Legislative Services Agency, and the Office of Ombudsman, and modifications to the Legislative staff pay matrix which were subsequently approved by the Legislative Council.

Personnel Reports and Budgets. The Legislative Services Agency and Office of Ombudsman personnel reports were received and the committee recommended the approval of proposed promotions and agency budgets for FY 2018-2019.

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Internet Site: www.legis.iowa.gov/committees/committee?ga=87&groupID=662

STUDIES COMMITTEE OF THE LEGISLATIVE COUNCIL

June 25, 2018

Chairperson: Speaker Linda Upmeyer

Vice Chairperson: Senator Jack Whitver

Overview. The committee considered mandates in statute and proposals for 2018 Interim studies contained in other requests, and recommended the actions listed in this briefing.

2018 Interim Studies. Studies were authorized for the 2018 Interim with the indicated number of members to address the following topics:

Statutory Committees

- **Legislative Fiscal Committee** (Iowa Code §§2.45(2) and 2.46)

Charge: The committee is a permanent legislative committee under the Legislative Council. Duties include examining budget and expenditure matters, directing the administration of performance audits and visitations, and studying the operation of state government and making recommendations regarding reorganization to the General Assembly.

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Members: 5 Senate/5 House

Meeting Days: As approved by the Chair and Vice Chair of the Legislative Council.

- **Legislative Tax Expenditure Committee** (Iowa Code §§2.45(5) and 2.48)

Charge: The committee is a permanent legislative committee under the Legislative Council. Duties include approving annual estimates of the cost of tax expenditures by December 15 each year, and performing a scheduled review of specified tax credits so that each credit is reviewed at least every five years. The eighth scheduled review is in 2018.

Members: 5 Senate/5 House

Meeting Days: As approved by the Chair and Vice Chair of the Legislative Council.

- **Health Policy Oversight Committee** (Iowa Code §2.45(6))

Charge: The committee is a permanent legislative committee under the Legislative Council. Duties include providing continuing oversight for Medicaid managed care, ensuring effective and efficient administration of the program, addressing stakeholder concerns, monitoring programs costs and expenditures, and making recommendations to the General Assembly.

Members: 5 Senate/5 House

Meeting Days: As approved by the Chair and Vice Chair of the Legislative Council.

Other Interim Studies

- **Mental Health and Disability Services Funding Study Committee** (2018 Iowa Acts, HF 2456, §19)

Charge: Analyze the viability of the mental health and disability services funding, including the methodology used to calculate and determine the base expenditure amount, the county budgeted amount, the regional per capita expenditure amount, the statewide per capita expenditure target amount, and the cash flow reduction amount. The committee shall submit its recommendations to the General Assembly by January 15, 2019.

Members: 5 Senate/5 House

Meeting Days: As approved by the Chair and Vice Chair of the Legislative Council.

- **Small City Clean Water Standards Compliance Study Committee** (2018 Iowa Acts, HF 2440, §16; 2018 Iowa Acts, SF 512, §25)

Charge: Identify and comprehensively review the financial and other challenges faced by small cities in complying with the various state and federal clean water standards, and to consider options for addressing those challenges. The committee shall evaluate the future effectiveness of the Wastewater and Drinking Water Treatment Financial Assistance Program and the Water Quality Financing Program, and may evaluate any other existing or proposed state programs. The committee shall seek input and may request information or assistance from public and private stakeholders and experts, including utility management organizations, the Iowa Association of Business and Industry, the Department of Natural Resources, the Iowa Finance Authority, the Department of Agriculture and Land Stewardship, the Economic Development Authority, the Iowa Chamber Alliance, the Iowa League of Cities, and the Iowa State Association of Counties. The committee shall submit its findings and recommendations to the General Assembly for consideration during the 2019 Legislative Session.

Members: 3 Senate/3 House

Meeting Days: As approved by the Chair and Vice Chair of the Legislative Council.

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Internet Site: www.legis.iowa.gov/committees/meetings/briefingsOnMeetings

ADMINISTRATIVE RULES REVIEW COMMITTEE

July 10, 2018

Chairperson: Senator Mark Chelgren

Vice Chairperson: Representative Dawn Pettengill

Public Employment Relations Board, *Initialization of A Retention and Recertification Election*, 6/6/18 IAB, ARC 3825C, NOTICE.

Background. The proposed rule provides that the Public Employment Relations Board (PERB) shall not conduct a retention and recertification election if the employer and certified employee organization are not parties to a collective bargaining agreement. The amendment is proposed to conform subrule 5.6(1) to Iowa Code section 20.15(2)(a).

Commentary. Ms. Diana Machir and Ms. Amber DeSmet represented PERB, reviewed the rulemaking, and responded to questions from the committee. Ms. Machir indicated that the proposed rule mirrors the statute and that the amendment is being proposed in order to provide clarity.

Upon inquiry from committee members, Ms. Machir indicated that there are educational, non-public safety, collective bargaining units operating without an agreement. Ms. Machir stated she would not speculate as to why there were no agreements. Ms. Machir indicated that there is no obligation to have a collective bargaining agreement in place. The only mandatory subject of collective bargaining for non-public safety collective bargaining units is base wages. Ms. Machir speculated that the union did not feel that a contract was necessary to negotiate base wages. Committee members questioned whether a union was doing its job if it did not negotiate a contract. Absent a collective bargaining agreement, Ms. Machir stated that the union still has an obligation to fairly represent members in negotiations and all other matters and a duty to negotiate base wages. Ms. Machir indicated that under Iowa Code section 20.15, the triggering event to a retention and recertification election is prior to the expiration of the collective bargaining agreement. In response to questions from committee members, Ms. Machir indicated that the full impact of the changes to Iowa Code chapter 20 have not been seen. Committee members expressed concern that unions could keep operating without agreements. Committee members questioned whether this issue would resolve itself with time. Ms. Machir indicated that employers and certified employee organizations could come to a mutual agreement.

In response to questions from committee members, Ms. Machir indicated that the statute requires a collective bargaining agreement to be in place to trigger a recertification and retention election, and that the rule must reflect this requirement. Committee members expressed disapproval with the rule, suggesting that unions may be exploiting a loophole to avoid the recertification process.

Committee members asked what the implications were of not having an agreement. Ms. Machir indicated that with regard to non-public safety unions, it is to the employer's benefit not to have such an agreement. Committee members stated that it was the General Assembly's intent to continue to require recertification elections on a regular basis and indicated that PERB was ignoring the intent of the General Assembly. Ms. Machir indicated that she consulted with Mr. Tim Cook, General Counsel for the Board of Regents, and attorneys for labor unions and that there was agreement that the statute requires a collective bargaining agreement be in place. Ms. Machir indicated that a contrary interpretation and rule implementation would be challenged in court and predicted that PERB would lose. Committee

members indicated that the General Assembly must have overlooked this scenario in drafting this law and will need to revisit it in the next session.

Action. No action taken.

Natural Resource Commission, *Deer Hunting by Residents and Nonresidents*, 6/6/18 IAB, ARC 3831C, FILED.

Background. The filed rules provide for deer hunting by residents and nonresidents and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

Commentary. Mr. Tyler Harms, Mr. Chris Ensminger, and Mr. Bruce Trautman, represented the Natural Resource Commission, reviewed the rulemaking, and responded to questions from the committee. Mr. Harms indicated that changes were made to the final rule based upon significant public comment. Specifically, the following changes were implemented and approved by the commission. A proposed six cartridge limit for firearms allowed for deer hunting was struck from the final rule. A proposed removal of handguns as an allowable method of take during the late muzzleloader season was struck from the final rule. Language defining a legal handgun for deer hunting specifically referring to shoulder stock and long barrel modifications was amended to reflect what is outlined in Iowa Code section 481A.48(5). Finally, in response to 2018 Iowa Acts, House File 631, language has been added since publication of the Notice to amend subrule 106.10(2) to allow youth deer hunting licenses and tags to remain valid, if unfilled, in all subsequent deer hunting seasons.

Upon inquiry from committee members, Mr. Harms stated that no straight wall cartridge rifles that were legal last year are illegal this year.

Mr. Scott Jones, a member of the public, appeared and requested a session delay pertaining to subparagraph 106.7(2)“c”(3) regarding the design of a pistol. Mr. Jones stated that the commission does not have authority to enact such rules. Mr. Jones indicated that the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has a definition of pistol. Mr. Jones also indicated that a state administrative rule definition of pistol would be unnecessary, redundant, and would confuse Iowa sportsmen and women because a federal definition of pistol already exists.

Contrary to Mr. Jones’ assertion that federal law defines a pistol, committee members stated they were given information that ATF does not concern itself with differentiating between long guns and handguns. Mr. Ensminger stated that the commission has requested information from ATF to help write a definition that is clear and that ATF has been unable to help. Mr. Ensminger said Department of Natural Resources is not able to address how the ATF would define pistol. Mr. Jones provided a reference to a federal statutory definition. Committee members and Mr. Jones engaged in a discussion about how the definition he provided varies from the definition provided by the commission. Some committee members indicated that a session delay was not necessary because the General Assembly had already had the opportunity to take action on the issue with gun omnibus bills the past two legislative sessions.

In response to a question from committee members, Acting Director Bruce Trautman stated that the commission’s position on a session delay of a portion of Item 10 that it is acceptable to the commission whether the ARRC chooses to delay the rule or not. Mr. Trautman stated that the commission was not going to put this description in the hunting rules and regulations book.

Committee members inquired why the commission would want a description that is in opposition to a federal description. Mr. Trautman indicated that when the description was developed, he did not believe

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it was in opposition to the ATF description. The description does not exclude firearms. Mr. Trautman indicated the commission believes it was a good attempt at describing firearms.

Other committee members indicated that this issue did not come up during the previous legislative session and perhaps it should be addressed during a future legislative session and then the rule could potentially be changed. Mr. Trautman agreed this should be addressed during session. Mr. Trautman reiterated it will not be placed into the hunting rules and regulations book.

Mr. Jones indicated that he did not believe that the commission had the authority to define a pistol.

Upon inquiry, Mr. Trautman stated that the feedback he received is that the pistol description does not include a hammerless revolver or a pistol grip that sticks straight down or comes back. Mr. Trautman stated that now he sees that the description could have been more descriptive.

Mr. Trautman reiterated that it is the commission's legal opinion and the conservation officers' opinion that no firearms that meet the definition of a handgun or a pistol are being excluded. He stated that he agrees the rule causes confusion and that is why it is being left out of the hunting rules and regulations book. Committee members suggested that the commission put an educational statement on its website. Mr. Trautman stated he is making efforts to educate, work with stakeholders, and ensure that his conservation officers have a full understanding of the laws in this instance. Furthermore, conservation officers are willing to meet with sportsmen who have questions regarding whether their firearms are allowable.

Action. No action taken.

Next Meeting. The next committee meeting will be held in Room 116, Statehouse, on Tuesday, August 14, 2018, beginning at 9:00 a.m.

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