

DUPLICATORY INSPECTION REQUIREMENTS STUDY COMMITTEE

Report to the Legislative Council
and the Members of the
Second Session of the Sixty-sixth General Assembly
State of Iowa
1976

F I N A L R E P O R T

DUPLICATORY INSPECTION REQUIREMENTS STUDY COMMITTEE

December, 1975

Senate Concurrent Resolution 64 requested the Legislative Council to appoint a joint subcommittee of the Senate Standing Committee on Cities and the House Standing Committee on Cities and Towns to study in what ways the inspection laws overlap and in what ways the inspection code overlapping may be consolidated or eliminated. At its July 16, 1975 meeting, the Legislative Council limited the joint interim subcommittee to consideration of building code inspection matters only. The Council acted further to establish a major study committee to look into broader problems relating to inspection functions of state agencies.

Pursuant to Council action, the Duplicatory Inspection Requirements Study Committee was appointed consisting of the following members:

Senator Irvin L. Bergman
Senator Richard J. Norpel, Sr.
Senator William D. Palmer
Senator Kenneth D. Scott
Senator Ray Taylor
Representative Keith Baker
Representative Ingwer L. Hansen
Representative Herbert C. Hinkhouse
Representative Ray Lageschulte
Representative James I. Middleswart

Senator Richard J. Norpel, Sr. and Representative James I. Middleswart were elected Co-chairpersons by the Study Committee members at its first meeting.

A total of six meetings of the Duplicatory Inspection Requirements Study Committee were held. A summary of the business conducted by the full Study Committee follows:

1. At its organizational meeting on September 3, 1975, the Study Committee agreed on the need to strike a reasonable balance between efficiency and guarding the public interest by way of inspections. The Study Committee has sought to eliminate only unnecessary duplication of inspections.

Mr. Norman Pawlewski, Commissioner of Public Health, appeared to explain that the State Department of Health is responsible for licensure of hospitals. The department also conducts inspections of health care facilities, migratory labor camps, funeral home preparation rooms, and plants and producers of Grade A milk. In addition, the Department also conducts

certification surveys in relation to Title XVIII of the federal Medicare program and Title XIX of the Social Security Act. It also conducts a variety of courtesy inspections or consultation visits upon request. In addition, the Department of Health inspects mobile home parks and travel trailer parks and conducts miscellaneous inspections such as the inspection of abandoned refrigerators.

The Study Committee learned that the State Department of Social Services and the State Department of Health both inspect health care facilities. This topic has received the primary attention of the Study Committee.

2. At its second meeting on September 18, 1975, the Study Committee heard presentations by Mr. Robert H. Lounsberry, Secretary of Agriculture, and Mr. Kevin J. Burns, Commissioner of Social Services. Both presentations pertained to inspections conducted by the respective state agencies.

The Study Committee learned that the Department of Agriculture now has three divisions: the regulatory division, the administrative division, and the chemical laboratory division. There are five areas within the regulatory division: food control, dairy products, standards control of weights and measures, meat-poultry inspection, and animal industry.

Food control is responsible for inspecting hotels, resort places, restaurants, cafeterias, cocktail lounges, mobile lunch units, food stand operators, grocery stores, beverage factories, fish dealers, food and vegetable places, and other similar enterprises.

Dairy products regulates Grade A fluid milk and the manufacturing of graded milk and dairy products.

Standards control of weights and measures is involved in such things as adjusting the weights and measures used by state inspectors as well as those used by commercial and industrial concerns. It also checks moisture testing devices and samples petroleum.

The meat-poultry inspection personnel collaborate with the United States Department of Agriculture in enforcing the meat and poultry laws.

Animal industry implements a brucellosis eradication program, a hog cholera eradication program, and a tuberculosis control program. It also bonds slaughter houses.

The state apiarist and dairy trade practices are within the administrative division of the Department of Agriculture. The chemical laboratory division is responsible for inspecting feed mills and elevators and registering their products. It also registers fertilizer plants and products and approves ammonia

installations. The pesticide supervisor registers pesticide products and tests, licenses, and bonds pesticide applicators. The seed and entomology supervisor inspects nurseries and monitors plant and pest control. The dairy laboratory supervisors analyze dairy samples for content. The food, meat, and poultry laboratory supervisors analyze food and meat samples.

Commissioner Kevin Burns of the Department of Social Services indicated that the Department deals with approximately 394 intermediate health care facilities in Iowa. The Department survey teams review approximately 10,800 Title XIX residents in health care facilities. The Department of Social Services also inspects every private and county institution providing care for the mentally ill. A foster care unit of the Bureau of Family and Adult Services is responsible for issuing all licenses for foster family homes. The Day Care Unit has 671 licensed preschool and day care centers. The Department has responsibility for registering family day care homes. The Bureau of Income Maintenance is required to visit the institutions which use commodities on a regular basis to review their records and their inventories of foods. The Department is also responsible for inspecting jails.

3. At its third meeting on September 25, 1975, the Study Committee received testimony from individuals whose facilities are subject to various inspections and representatives of interested groups. The following persons testified:

Mr. Peter J. Canakes--Iowa Restaurant Association
Mr. John H. Brockway--Iowa Hotel-Motel Association
Ms. Pat Nuehring--beauty salon operator in Fort Dodge
Mr. Robert Boyken--barber shop owner in Hudson, representing Barbers of Iowa
Mr. Buck Brock--Commonwealth Care Center (Nursing Home) in Des Moines
Mr. James Bagley--Greene County Medical Center, a hospital in Jefferson
Mr. Craig W. Morrison--Manager of Farmers Cooperative Creamery in Cresco
Mr. John H. Brockway--Iowa Dairy Foods Association
Mr. Jack Harker--Harker Wholesale Meats in Le Mars
Mr. Robert Skinner--Feed and Grain Dealer
Mr. Francis Anania--tavern owner and operator in Des Moines
Mr. Gary Baugher--Mel Ray Mobile Home Park operator in Ankeny

4. The fourth meeting of the Study Committee was held on October 3, 1975. Presentations were given by Mr. Jerry Addy, Commissioner of Labor, and Mr. Larry E. Crane, Director of the Department of Environmental Quality. Both presentations related to inspections conducted by the respective state agencies.

The Labor Bureau enforces OSHA standards. The Labor Bureau also conducts safety inspections of amusement rides. Chapter 89 requires the state boiler inspector to inspect boilers or cause them to be inspected in order to determine whether

equipment is in a safe and satisfactory condition. The Labor Bureau itself conducts boiler inspections for a \$20 fee. It also certifies insurance companies to inspect boilers. The Labor Bureau also deals with child labor, migratory labor camps, elevators, railroad sanitation for employees, and wage collection-wage payment.

Mr. Larry Crane, Director of the Department of Environmental Quality, testified that the Environmental Protection Agency conducts a number of wastewater inspections in Iowa in addition to those conducted by DEQ. EPA and DEQ conduct joint final inspections upon completion of water pollution control grant projects. EPA and DEQ conduct joint inspections of air pollution projects. DEQ responds to emergency spills. DEQ and the Department of Health have some overlap in wastewater control. This involves wastewater discharges from septic tanks. There is potential overlap between DEQ and the Department of Health in the area of mobile home parks. DEQ inspects mobile home parks where there is a public water supply or a wastewater treatment plant. DEQ assists in the review of plans and specifications for new treatment facilities and in doing follow-up surveys where serious problems have been isolated. DEQ responds to complaints relating to ammonia storage vessels. DEQ also has an interest in and responsibility for livestock poisoning from livestock chemicals.

5. The fifth Study Committee meeting was held on November 5-6, 1975. Reports were given by the three visitation subcommittees that had been appointed by the Co-chairpersons at a prior meeting. Group I Visitation Subcommittee consisted of Senator Richard J. Norpel, Sr., Co-chairperson, Representative Herbert Hinkhouse, and Representative Ray Lageschulte. The Subcommittee visited a hospital, various day care centers, and various nursing homes where the members discussed inspection with the facility operators.

Group II Visitation Subcommittee consisted of Representative James I. Middleswart, Co-chairperson, Senator William D. Palmer, and Senator Ray Taylor. This Subcommittee toured the Anderson-Erickson Dairy in Des Moines; a truck stop facility including a hotel, restaurant, gasoline station, mobile home court, and lagoon; and the Amana Meat Market where members talked with owners about inspections.

Group III Visitation Subcommittee consisted of Representative Ingwer L. Hansen, Senator Irvin L. Bergman, Senator Kenneth D. Scott, and Representative Keith Baker. They visited a hospital, nursing homes, and other facilities where they spoke with administrators about inspections.

Mr. Don Wicklund, Director of Personnel, State Department of Transportation, testified before the Study Committee about inspections conducted by the State Department of Transportation. DOT is involved in bridge and highway construction inspection, bridge maintenance inspection, airport inspection, railroad track inspection, motor vehicle inspection, equal employment opportunity

inspection, automobile mechanics and equipment inspection, building and grounds maintenance inspection, and road maintenance inspection.

The Study Committee began discussion of various legislative proposals that had been made by its members, by department heads, or by other groups and individuals who had testified before the Study Committee.

Following is a list of legislative proposals which the Study Committee has considered and taken action on.

A. Suggestions for legislative changes as recommended by members of the Duplicatory Inspection Requirements Study Committee during the course of its regular meetings:

1. Transfer all inspection duties relating to health care facilities from the Department of Social Services to the Department of Health.
2. Review the requirements relating to separate facilities and beauty shops located within the same structure.
3. Transfer authority to inspect restaurants and other food establishments from the Department of Agriculture to the Department of Health.
4. Transfer authority to inspect hotels and motels from the Department of Agriculture to the Department of Health, and repeal the law which requires sheets in hotels to be ironed.
5. Have the Department of Agriculture take over all Grade A milk inspection.
6. Meat-Poultry licenses should be eliminated.
7. Governmental units should not have the option of contracting with an insurance company to inspect their boilers when the Bureau of Labor can do it cheaper and often better. The Bureau of Labor's inspection fee could be raised to \$50, and a fund similar to the County Indemnification Fund could be set up whereby a portion of the fee would be kept and used to help a governmental entity with expenses incurred when a boiler does explode. (The Bureau of Labor charges \$20 to inspect while insurance companies charge \$90 for the same inspection.)
8. Adopt a procedure similar to that of the federal government whereby the state would require environmental impact statements where state money is involved in a project or where a state permit is involved. Also, establish guidelines to ensure that the statements are kept brief and to the point.
9. Have the Department of Environmental Quality conduct all inspections of mobile home parks.

10. Create a grievance committee to hear complaints of persons who have been cited by an inspector for noncompliance with some requirement.

B. Suggestions for legislative changes as recommended by department heads:

1. Mr. Jerry Addy, Commissioner of Labor:

a. Amend Chapter 88A of the Code (Safety Inspection of Amusement Rides) so that food stands and service booths are subject to requirements relating to electrical wiring.

b. Repeal Chapter 90 of the Code (Boards of Arbitration).

c. Change sections 91.18, 94.1 through 94.4, and 96.12 of the Code. These sections deal with the responsibility for maintaining and providing a system of public employment offices. Mr. Addy feels responsibility in this area should more properly be placed in the Employment Security Commission than in the Bureau of Labor.

d. Amend Chapter 138 of the Code by redefining in section 138.15 the definition of commissioner to mean the Commissioner of Labor or his designee and in section 183.14, the term "department" meaning the Bureau of Labor.

e. Amend Chapter 7A of the Code to create an agency that would serve as a clearinghouse for all funds coming into the state for the purpose of assisting migrant workers.

f. Amend Chapter 477 of the Code so the State Department of Transportation is responsible for adequate sanitation and shelter for railway employees.

2. Mr. Norman L. Pawlewski, Commissioner of Public Health:

a. Change the laws that require the Department of Health to employ inspectors for the Barber and Cosmetology Boards to permit Health to combine these inspection activities with those of the Health Engineering Section.

b. Well-trained, qualified public health sanitarians could inspect restaurants, barbershops and beauty salons, private water supplies and sewage disposal, migrant labor camps, swimming pools, motels, hotels, mobile home parks and travel trailer parks, and the like in given areas.

3. Mr. R. H. Lounsberry, Secretary of Agriculture:

Currently there are six trust funds from which some payment is made for inspections conducted by the Department of Agriculture. The suggestion was to abolish these trust funds

because they make budgeting and requesting appropriations difficult.

4. Mr. Larry Crane, Director of the Department of Environment Quality:

a. Transfer all responsibility for inspecting wastewater discharges from septic tanks to the Department of Health.

b. Give Iowa federal wastewater discharge permit authority so DEQ can conduct all wastewater inspections.

Suggestions for legislative changes have also been recommended by various groups and individuals who appeared before the Study Committee.

Action Taken

1. The Study Committee has referred the following proposal to the Building Code Inspection Subcommittee of the Senate Standing Committee on Cities and the House Standing Committee on Cities and Towns: Amend Chapter 103A of the Code so the Commissioner of Labor, not the Director of Municipal Affairs in OPP, is designated to serve as the state building code commissioner.

2. The Study Committee has referred Mr. Addy's proposal to amend sections 91.18, 94.1 through 94.4, and 96.12 relating to his responsibility under those sections to the Employment Security Laws Study Committee.

3. The Study Committee has referred the following proposal to the Railroads Subcommittee of the Transportation Finance Study Committee: Amend Chapter 477 of the Code so the Department of Transportation is responsible for adequate sanitation and shelter for railway employees.

4. The Study Committee has notified the Subcommittee on Barbers and Cosmetology of the Senate and House Standing Committees on State Government that it recommends passage of provisions that would require salons and barbershops to be inspected prior to opening.

5. The Study Committee has notified the Senate and House Standing Committees on Natural Resources that it recommends the State Department of Environmental Quality be given federal wastewater discharge permit authority.

6. The Study Committee has referred consideration of House File 786 relating to the inspection of grain by the Department of Agriculture, to the Grain Grading Procedures Subcommittee of the Standing Committees on Agriculture.

Recommendations

1. The State Department of Social Services should contract with the State Department of Health for Health to conduct all care reviews for Title XIX patients.
2. Retail egg, milk, and meat and poultry licenses should be eliminated.
3. A city in Iowa should not be able to charge a milk fee where there is no dairy and no milk inspection conducted.
4. The Secretary of Agriculture should have the authority to contract with local health departments to avoid overlap in inspecting restaurants, food establishments, hotels, motels, motor inns, and similar places. The Department of Agriculture would set the standards. There would be one inspection, one license, and one license fee instead of both a state and local inspection, license and fee. If the contract stipulates the state department will inspect, it would inspect, collect the fee, and issue the state license. If, on the other hand, the contract stipulates the local health department will inspect, it would inspect, collect the fee, and issue the state license.
5. Sections 170.2 and 189A.3 should be amended so establishments slaughtering or otherwise preparing meat and poultry would be both licensed and inspected by the Food Products Division of the Department of Agriculture.
6. Subsection 2 of section 189A.3 should be amended to read:
"2. For all meat and poultry slaughtered or otherwise prepared in excess of twenty thousand pounds per year for sale, resale, or custom, fifty dollars."
This will make the section consistent with subsection 1 of section 189A.3.
7. The six trust funds from which some payment is made for inspections conducted by the Department of Agriculture should be abolished because they make budgeting and requesting appropriations difficult.
8. The Department of Agriculture should merge the L.P. gas "provers" (meter inspectors) with the gasoline "provers".
9. The law which requires sheets in hotels and motels to be ironed should be repealed in order to allow no-iron sheets to be used.
10. The federal procedure requiring environmental impact statements should be adopted for Iowa where state money is involved in a project or where a state permit is required for undertakings which might have an impact on the environment.

11. All responsibility for inspecting wastewater discharges from septic tanks should be transferred from the Department of Environmental Quality to the Department of Health.

12. The Department of Environmental Quality should be given federal wastewater discharge permit authority.

13. Beauty salons and barbershops should be inspected prior to opening.

14. The law should require the Department of Health to employ inspectors for the Barber and Cosmetology Boards to permit the department to combine these inspection activities with those of the Health Engineering Section.

15. Well-trained, qualified public health sanitarians should inspect barbershops and beauty salons, private water supplies and sewage disposal, swimming pools, mobile home parks and travel trailer parks, and the like in given areas.

16. The fee for inspecting motor vehicles should be a negotiable fee of not more than \$10 to more adequately reflect the cost of a thorough inspection.

17. All new cars sold in the state should be inspected at cost to the seller.

18. Governmental units should not have the option of contracting with an insurance company to inspect their boilers when the Bureau of Labor can do it cheaper and often better. The Bureau of Labor's inspection fee should be raised from \$20 to \$50, and a fund similar to the County Indemnification Fund should be set up wherein one-half the inspection fee would be placed and used to help a governmental entity with expenses incurred when a boiler does explode.

19. Chapter 88A of the Code should be amended so that food stands and service booths would be brought under the chapter.

20. Chapter 90 of the Code relating to a board of arbitration should be repealed.

21. Chapter 86 of the Code should be amended to give the industrial commissioner authority to contract.

Bills

Copies of bills drafted pursuant to the above mentioned recommendations are on file with the Legislative Service Bureau. Copies will be forwarded to the presiding officers of the House and Senate and to the majority floor leader in the Senate.