

MAR 6 2006
Place On Calendar

HOUSE FILE 2662
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 616)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the effective period and legislative review of
2 administrative rules.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2662

1 Section 1. Section 17A.4, subsection 1, paragraph a, Code
2 2005, is amended to read as follows:

3 a. Give notice of its intended action by submitting three
4 copies of the notice to the administrative rules coordinator,
5 who shall assign an ARC number to each rulemaking document and
6 forward two copies to the administrative code editor for
7 publication in the Iowa administrative bulletin created
8 pursuant to section 17A.6. The agency shall also submit a
9 copy of the notice to the speaker of the house of
10 representatives and the president of the senate who shall
11 refer the rules to the appropriate standing committees of the
12 general assembly for additional study. Any notice of intended
13 action shall be published at least thirty-five days in advance
14 of the action. The notice shall include a statement of either
15 the terms or substance of the intended action or a description
16 of the subjects and issues involved, and the time when, the
17 place where, and the manner in which interested persons may
18 present their views.

19 Sec. 2. Section 17A.5, subsection 1, Code 2005, is amended
20 to read as follows:

21 1. Each agency shall file in the office of the
22 administrative rules coordinator three certified copies of
23 each rule adopted by it. The administrative rules coordinator
24 shall assign an ARC number to each rulemaking document and
25 forward two copies to the administrative code editor. The
26 administrative rules coordinator shall keep a permanent
27 register of the rules open to public inspection. The agency
28 shall also submit a copy of the adopted rule to the speaker of
29 the house of representatives and the president of the senate
30 who shall refer the rule to the appropriate standing
31 committees of the general assembly for additional study.

32 Sec. 3. Section 17A.5, Code 2005, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 3. An administrative rule is rescinded
35 five years after the initial effective date of the rule,

1 excluding the effective dates of later amendments. For rules
2 that are in effect on July 1, 2006, the rescission date is July
3 1, 2011.

4 Sec. 4. Section 17A.6, subsection 3, unnumbered paragraph
5 2, Code 2005, is amended to read as follows:

6 The administrative code editor shall omit or cause to be
7 omitted from the Iowa administrative code any rule or portion
8 of a rule nullified by the general assembly pursuant to
9 Article III, section 40, of the Constitution of the State of
10 Iowa, and shall publish notice of such nullification in the
11 bulletin.

12 Sec. 5. NEW SECTION. 17A.8A LEGISLATIVE REVIEW OF RULES.

13 The standing committees of the house of representatives and
14 senate may review any administrative rule. If reviewed, the
15 standing committee reviewing the rule shall report to the
16 house of representatives or senate its findings and
17 recommendations concerning its review. If ordered by the
18 speaker of the house of representatives or the president of
19 the senate, the report of the committee shall be printed in
20 the journal.

21 EXPLANATION

22 This bill requires administrative agencies to submit copies
23 of all proposed and adopted administrative rules to the
24 general assembly and would allow standing committees of the
25 house of representatives and senate to review any
26 administrative rule. As part of the rulemaking process, no
27 rule could remain in effect for more than five years.

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H-8190

1 Amend House File 2662 as follows:

2 1. By striking page 1, line 32, through page 2,
3 line 3, and inserting the following:

4 "Sec. ____ . NEW SECTION. 17A.5A COMPREHENSIVE
5 REVIEW AND RECISSION.

6 1. Each agency shall develop an ongoing plan for
7 the comprehensive review of all agency rules over a
8 five-year period. The initial review shall commence
9 July 1, 2010. Each state agency shall commence its
10 review by developing a plan in consultation with major
11 stakeholders and constituent groups. The plan shall
12 specifically identify all rules exempt from the
13 requirements of this section due to state or federal
14 law and shall contain an explanation of the
15 exemptions.

16 a. The plan shall provide a realistic, workable,
17 and effective scheme for the review of agency rules
18 and for the identification and elimination of all
19 rules of the agency that are outdated, redundant,
20 overbroad, ineffective, unnecessary, or otherwise
21 undesirable.

22 b. The plan shall include a schedule for review
23 and of each rule within the five-year period. Any
24 rule not scheduled for review under this plan is void
25 on January 1, 2011.

26 c. The review shall be accomplished through a
27 rulemaking process as provided in sections 17A.4 and
28 17A.5. As part of this process, the agency shall
29 either readopt the rule, amend and readopt the rule,
30 or rescind the rule.

31 d. Each agency shall annually prepare a report
32 that summarizes the results of each review and
33 documents the rule changes that have been made
34 pursuant to the review. Copies of the report shall be
35 provided to the governor, the president of the senate,
36 and the speaker of the house.

37 2. This section does not apply to the department
38 of revenue, the state board of regents, or a licensing
39 board as described in section 272C.1, or any rule that
40 is required by a federal law and that does not exceed
41 the minimum scope and intent of that federal law."

42 2. Page 2, by inserting after line 11 the
43 following:

44 "Sec. ____ . Section 17A.7, subsection 2, Code 2005,
45 is amended by striking the subsection."

46 3. Title page, by striking lines 1 and 2 and
47 inserting the following: "An Act requiring all
48 administrative rules to be periodically reviewed and
49 repromulgated by state agencies and providing for
50 legislative review."

H-8190

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H-8190

Page 2

1 4. By renumbering as necessary.

By EICHHORN of Hamilton

H-8190 FILED MARCH 13, 2006

HOUSE FILE 2662

H-8295

1 Amend the amendment, H-8190, to House File 2662 as
2 follows:

3 1. Page 1, by striking lines 4 through 41 and
4 inserting the following:

5 ""Sec. ____ . NEW SECTION. 17A.5A AUTOMATIC SUNSET
6 AND LEGISLATIVE REAUTHORIZATION.

7 1. Commencing July 1, 2007, all rules shall expire
8 on June 30, one year following the initial effective
9 date of the rule, excluding the effective dates of any
10 amendment to the rules.

11 2. By the second Monday in January of each year
12 each agency shall prepare a listing of those rules
13 which will expire on June 30 and submit that list to
14 the president of the senate and the speaker of the
15 house of representatives, who shall refer the list to
16 the appropriate standing committees of the general
17 assembly. A standing committee shall review the list
18 within twenty-one days after it is referred to the
19 committee by the speaker of the house of
20 representatives or the president of the senate and
21 shall take formal committee action by proposing
22 legislation to extend the effective date of some or
23 all of the rules contained on that list for an
24 additional year.

25 3. Any rule which has not had its effective date
26 extended as provided in subsection 2 is void the
27 following June 30 and the administrative code editor
28 shall remove it from the Iowa administrative code.""

29 2. Page 1, by striking lines 46 through 50 and
30 inserting the following:

31 " ____ . Title page, by striking lines 1 and 2 and
32 inserting the following: "An Act providing for the
33 automatic expiration of all administrative rules, for
34 their reauthorization by the general assembly, and
35 providing additional legislative review.""

36 3. By renumbering as necessary.

By J. K. VAN FOSSEN of Scott

H-8295 FILED MARCH 16, 2006

**EIGHTY-FIRST GENERAL ASSEMBLY
2006 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

MARCH 20, 2006

HOUSE FILE 2662

H-8310

1 Amend the amendment, H-8190, to House File 2662, as
2 follows:

3 1. Page 1, by striking lines 4 through 41 and
4 inserting the following:

5 ""Sec. ____ . NEW SECTION. 17A.5A AUTOMATIC SUNSET
6 AND LEGISLATIVE REAUTHORIZATION.

7 1. Commencing July 1, 2007, each rule adoption
8 shall expire on June 30, at least one year following
9 the initial effective date of the rule adoption.

10 2. By the second Monday in January of each year
11 each agency shall prepare a listing of those rule
12 adoptions which will expire on June 30 and submit that
13 list to the president of the senate and the speaker of
14 the house of representatives, who shall refer the list
15 to the appropriate standing committees of the general
16 assembly. A standing committee shall review the list
17 within twenty-one days after it is referred to the
18 committee by the speaker of the house of
19 representatives or the president of the senate and
20 shall take formal committee action by proposing
21 legislation to extend the effective date of some or
22 all of the rule adoptions contained on that list for
23 an additional specified period or make the rule
24 adoption permanent.

25 3. Any rule adoption which has not had its
26 effective date extended as provided in subsection 2 is
27 void the following June 30 and the administrative code
28 editor shall remove it from the Iowa administrative
29 code.

30 4. This section does not apply to rule adoptions
31 by the department of revenue, the state board of
32 regents, or a licensing board as described in section
33 272C.1, or any rule adoption that is required by a
34 federal law and that does not exceed the minimum scope
35 and intent of that federal law.""

36 2. Page 1, by striking lines 46 through 50 and
37 inserting the following:

38 " ____ . Title page, by striking lines 1 and 2 and
39 inserting the following: "An Act providing for the
40 automatic expiration of all administrative rule
41 adoptions, for their reauthorization by the general
42 assembly, and providing additional legislative
43 review.""

44 3. By renumbering as necessary.

By J. K. VAN FOSSEN of Scott

H-8310 FILED MARCH 17, 2006

HOUSE FILE 2662

H-8311

1 Amend House File 2662 as follows:

2 1. By striking page 1, line 32, through page 2,
3 line 3, and inserting the following:

4 "Sec. ____ . NEW SECTION. 17A.5A AUTOMATIC SUNSET
5 AND LEGISLATIVE REAUTHORIZATION.

6 1. Commencing July 1, 2007, each rule adoption
7 shall expire on June 30, at least one year following
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13 the house of representatives, who shall refer the list
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15 assembly. A standing committee shall review the list
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17 committee by the speaker of the house of
18 representatives or the president of the senate and
19 shall take formal committee action by proposing
20 legislation to extend the effective date of some or
21 all of the rule adoptions contained on that list for
22 an additional specified period or make the rule
23 adoption permanent.

24 3. Any rule adoption which has not had its
25 effective date extended as provided in subsection 2 is
26 void the following June 30 and the administrative code
27 editor shall remove it from the Iowa administrative
28 code.

29 4. This section does not apply to rule adoptions
30 by the department of revenue, the state board of
31 regents, or a licensing board as described in section
32 272C.1, or any rule adoption that is required by a
33 federal law and that does not exceed the minimum scope
34 and intent of that federal law."

35 2. Title page, by striking lines 1 and 2 and
36 inserting the following: "An Act providing for the
37 automatic expiration of all administrative rule
38 adoptions, for their reauthorization by the general
39 assembly, and providing additional legislative
40 review."

41 3. By renumbering as necessary.

By J. K. VAN FOSSEN of Scott

H-8311 FILED MARCH 17, 2006

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2662 – Legislative Review of Administrative Rules (LSB 6404 HV)
Analyst: Mary Beth Mellick (Phone: [515] 281-8223) (marybeth.mellick@legis.state.ia.us)
Fiscal Note Version – New

Description

House File 2662 requires State agencies to submit copies of all proposed and adopted administrative rules to the General Assembly, and would allow standing committees of the House and Senate to review any administrative rule. Section 3 of the Bill states that as part of the rulemaking process, an administrative rule is rescinded five years after the initial effective date of the rule. For rules that are in effect on July 1, 2006, the rescision date is July 1, 2011.

Background

Section 17A.7, Code of Iowa, states that any person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator for an agency to conduct a formal review of a specified rule of that agency to determine whether the rule should be repealed or amended or a new rule adopted instead. The administrative rules coordinator is to determine whether the request is reasonable and does not place an unreasonable burden upon the agency. If the agency has not conducted such a review of the specified rule within a period of five years prior to the filing of the written request, and upon a determination by the administrative rules coordinator that the request is reasonable and does not place an unreasonable burden upon the agency, the agency is to prepare, within a reasonable time, a written report summarizing the agency's findings, its supporting reasons, and any proposed course of action.

Analysis

1. This analysis is based on information received from the Department of Public Safety (DPS), Department of Public Health (DPH), various professional boards under the DPH, and the Department of Human Services (DHS). This is just a sample of the State departments and entities that would be affected by HF 2662.
2. There are currently 110 departments or entities that adopt administrative rules. The number of rules per department varies from one rule to three volumes of rules. The current volumes containing all administrative rules contain more than 16,000 pages.
3. Estimated costs for the departments and boards surveyed are listed below:
 - **Department of Public Safety**
Expenditures in the first year would total approximately \$109,500, and \$79,500 annually in the second and subsequent fiscal years as follows:
 - Year 1
 - \$79,000 for 1.5 additional FTE positions.
 - \$30,500 for support, supplies, and equipment, including a tracking database.
 - Year 2 and subsequent fiscal years
 - \$79,000 for 1.5 additional FTE positions.
 - \$500 for support and supplies.
 - **Department of Public Health**
Expenditures in the first year would total approximately \$129,000, and \$126,000 annually in the second and subsequent fiscal years as follows:
 - Year 1
 - \$125,000 for 2.0 additional FTE positions.

- \$4,000 for support, supplies, equipment, and office furniture.
- Year 2 and subsequent fiscal years
 - \$125,000 for 2.0 additional FTE positions.
 - \$1,000 for support and supplies.
- **Board of Professional Licensure (Department of Public Health)**
Annual expenditures would total approximately \$216,400 as follows:
 - \$195,000 for 3.0 additional FTE positions.
 - \$21,400 for travel costs associated with 20 additional meetings.

The Board has 144 chapters of rules. The Board has revised most of the chapters during 2004 and 2005, and plans are underway to continue the process. The Board states that the proposed legislation would duplicate a process that is already in place.

- **Pharmacy Examiners**

Expenditures in the first year would total \$61,900, and \$59,500 annually in the second and subsequent fiscal years as follows:

- Year 1
 - \$53,700 for 1.0 additional FTE position.
 - \$4,600 for supplies and equipment.
 - \$3,700 for travel costs associated with six additional meetings.
- Year 2 and subsequent fiscal years
 - \$53,700 for 1.0 additional FTE position.
 - \$2,100 for support and supplies.
 - \$3,700 for travel costs associated with six additional meetings.
- **Dental Examiners**
Annual expenditures would total approximately \$95,300 as follows:
 - \$79,800 for 1.1 additional FTE positions.
 - \$5,500 for support, supplies, and equipment.
 - \$10,000 for travel costs associated with one additional meeting.
- **Board of Nursing**
Annual expenditures would total approximately \$169,100 as follows:
 - \$113,000 for 2.0 additional FTE positions.
 - \$5,500 for support, supplies, and equipment.
 - \$50,600 for travel costs associated with five additional meetings.
- **Department of Human Services**
Expenditures in the first year would total approximately \$327,300, and \$324,700 in the second and subsequent fiscal years as follows:
 - Year 1
 - \$272,500 for 4.0 additional FTE positions.
 - \$54,700 for support, supplies, and equipment.
 - Year 2 and subsequent fiscal years
 - \$272,500 for 4.0 additional FTE positions.
 - \$52,200 for support and supplies.

Expending State funds results in an increase in federal funds to the DHS. The Department is estimated to receive \$161,200 in federal funds in Year 1 and an estimated \$161,600 annually in Year 2 and beyond, resulting in a net State General Fund decrease of \$166,000 in Year 1 and \$163,100 in Year 2 and beyond.

Summary

The total fiscal impact of HF 2662 is unknown, but the total will be significant. There are currently 110 departments or entities that adopt administrative rules. The departments or entities may require additional costs for FTE positions, support, supplies, equipment, and travel expenses associated with implementing Section 3 (rescinding of rules every five years). The fiscal year in which departments begin incurring such costs is also unknown. This analysis assumes most agencies would need to hire additional staff by FY 2009 to allow enough time for resubmission and reauthorization of rules prior to the initial rescission date of July 1, 2011. Therefore, costs incurred by agencies would begin in FY 2009. Larger agencies with a significant amount of rules may require additional staff earlier than FY 2009.

Legislative Services Agency

The cost to the Legislative Services Agency is unknown, but the total will be significant. Additional legislative staff and support will be required, but the number and cost is unknown. Costs would be paid from the General Fund.

Sources

Department of Public Safety
Department of Public Health
 Board of Professional Licensure
 Pharmacy Examiners
 Dental Examiners
 Board of Nursing
Department of Human Services
Legislative Services Agency

/s/ Holly M. Lyons

March 10, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 2662
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 616)

(As Amended and Passed by the House March 21, 2006)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the automatic expiration of all
2 administrative rule adoptions, for their reauthorization by
3 the general assembly, and providing additional legislative
4 review.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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7 House Amendments _____

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3 a. Give notice of its intended action by submitting three
4 copies of the notice to the administrative rules coordinator,
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7 publication in the Iowa administrative bulletin created
8 pursuant to section 17A.6. The agency shall also submit a
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15 the terms or substance of the intended action or a description
16 of the subjects and issues involved, and the time when, the
17 place where, and the manner in which interested persons may
18 present their views.

19 Sec. 2. Section 17A.5, subsection 1, Code 2005, is amended
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22 administrative rules coordinator three certified copies of
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33 **LEGISLATIVE REAUTHORIZATION.**

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35 expire on June 30, at least one year following the initial

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HSB 616

JUDICIARY

JE

HOUSE FILE

SF

2662

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

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TLSB 6404HC 81

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