

# House Study Bill 33

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL  
BY CHAIRPERSON ELGIN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for negotiated rulemaking.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 1983HC 81  
4 jr/sh/8

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1 1 Section 1. NEW SECTION. 17A.4B NEGOTIATED RULEMAKING.  
1 2 1. An agency shall create a negotiated rulemaking group if  
1 3 required by statute. An agency may, on its own motion or upon  
1 4 request, create a negotiated rulemaking group if the agency  
1 5 determines that a negotiated rulemaking group can adequately  
1 6 represent the interests that will be significantly affected by  
1 7 a proposed rule and that it is feasible and appropriate in the  
1 8 particular rulemaking. Notice of the creation of a negotiated  
1 9 rulemaking group shall be published in the Iowa administrative  
1 10 bulletin. Upon establishing a negotiated rulemaking group,  
1 11 the agency shall also specify a time frame for group  
1 12 deliberations.  
1 13 2. Unless otherwise provided by statute, the agency shall  
1 14 appoint a sufficient number of members to the group so that a  
1 15 fair cross section of opinions and interests regarding the  
1 16 proposed rule is represented. One person shall be appointed  
1 17 to represent the agency. The group shall select its own  
1 18 chairperson and adopt its rules of procedure. All meetings of  
1 19 the group shall be open to the public. A majority of the  
1 20 membership constitutes a quorum. Members shall not receive  
1 21 any per diem payment but shall be reimbursed for all necessary  
1 22 expenses. Any vacancy shall be filled in the same manner as  
1 23 the initial appointment.  
1 24 3. Prior to the publication of a notice of intended  
1 25 action, the group shall consider the terms or substance of the  
1 26 rule proposed by the agency and shall attempt to reach a  
1 27 consensus concerning the proposed rule.  
1 28 4. If a group reaches a consensus on a proposed rule, the  
1 29 group shall transmit to the agency a report containing the  
1 30 consensus on the proposed rule. If the group does not reach a  
1 31 consensus on a proposed rule within the specified time frame,  
1 32 the group shall transmit to the agency a report stating that  
1 33 inability to reach a consensus and specifying any areas in  
1 34 which the group reached a consensus. The group may include in  
1 35 a report any other information, recommendations, or materials  
2 1 that the group considers appropriate. Any group member may  
2 2 include as an addendum to the report additional information,  
2 3 recommendations, or materials. A report issued under this  
2 4 subsection shall not be considered final agency action for  
2 5 purposes of judicial review.  
2 6 5. Unless otherwise provided by statute, following a  
2 7 negotiated rulemaking group consideration of a proposed rule,  
2 8 the agency may commence rulemaking as provided in section  
2 9 17A.4. The group is automatically abolished upon the agency's  
2 10 adoption of the rule pursuant to the provisions of section  
2 11 17A.5.

### EXPLANATION

2 12 If required by statute, this bill requires an agency to  
2 13 create an ad hoc group to review proposed rules prior to  
2 14 commencing a rulemaking proceeding. Where a statute does not  
2 15 require this review, the bill allows an agency to create such  
2 16 a review group. Members are appointed by the agency and the  
2 17 composition must adequately represent a fair balance of the  
2 18 interests affected by the rule. Once such a group is created,  
2 19

2 20 the agency may only commence rulemaking after the group has  
2 21 considered the proposed rule in question.  
2 22 The bill is based on similar provisions found in the  
2 23 federal Administrative Procedures Act.  
2 24 LSB 1983HC 81  
2 25 jr:rj/sh/8