

Senate File 439 - Introduced

SENATE FILE 439
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 375)

A BILL FOR

- 1 An Act providing for negotiated rulemaking.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 17A.4B **Negotiated rulemaking.**

2 1. An agency shall create a negotiated rulemaking group if
3 required by statute. An agency may, on its own motion or upon
4 request, create a negotiated rulemaking group if the agency
5 determines that a negotiated rulemaking group can adequately
6 represent the interests that will be significantly affected by
7 a draft rule proposal and that it is feasible and appropriate
8 in the particular rulemaking. Notice of the creation of a
9 negotiated rulemaking group shall be published in the Iowa
10 administrative bulletin. Upon establishing a negotiated
11 rulemaking group, the agency shall also specify a time frame
12 for group deliberations.

13 2. Unless otherwise provided by statute, the agency shall
14 appoint a sufficient number of members to the group so that
15 a fair cross section of opinions and interests regarding the
16 draft rule proposal is represented. One person shall be
17 appointed to represent the agency. The group shall select its
18 own chairperson and adopt its rules of procedure. All meetings
19 of the group shall be open to the public. A majority of the
20 membership constitutes a quorum. Members shall not receive
21 any per diem payment but shall be reimbursed for all necessary
22 expenses. Any vacancy shall be filled in the same manner as
23 the initial appointment.

24 3. Prior to the publication of a notice of intended action,
25 the group shall consider the terms or substance of the rule
26 drafted by the agency and shall attempt to reach a consensus
27 concerning the draft rule proposal.

28 4. If a group reaches a consensus on a draft rule proposal,
29 the group shall transmit to the agency a report containing the
30 consensus on the draft rule proposal. If the group does not
31 reach a consensus on a draft rule proposal within the specified
32 time frame, the group shall transmit to the agency a report
33 stating that inability to reach a consensus and specifying any
34 areas in which the group reached a consensus. The group may
35 include in a report any other information, recommendations,

1 or materials that the group considers appropriate. Any group
2 member may include as an addendum to the report additional
3 information, recommendations, or materials. A report issued
4 under this subsection shall not be considered final agency
5 action for purposes of judicial review.

6 5. Unless otherwise provided by statute, following a
7 negotiated rulemaking group consideration of a draft rule
8 proposal, the agency may commence rulemaking as provided in
9 section 17A.4. The group is automatically abolished upon the
10 agency's adoption of the rule pursuant to the provisions of
11 section 17A.5.

12 EXPLANATION

13 If required by statute, this bill requires an agency to
14 create an ad hoc group to review draft rule proposals prior
15 to commencing a rulemaking proceeding. Where a statute does
16 not require this review, the bill allows an agency to create
17 such a review group. Members are appointed by the agency and
18 the composition must adequately represent a fair balance of the
19 interests affected by the rule. Once such a group is created,
20 the agency may only commence rulemaking after the group has
21 considered the draft rule proposal in question.

22 The bill is based on similar provisions found in the federal
23 Administrative Procedures Act.