

Senate File 166 - Introduced

SENATE FILE 166

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A BILL FOR

1 An Act creating a negotiated rulemaking process.

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 interests and opinions 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 proposed by the agency and shall attempt to reach a consensus
27 on the advisability of adopting 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
7 consideration of a draft rule proposal by a negotiated
8 rulemaking group, the agency may commence rulemaking as
9 provided in section 17A.4. The group is automatically
10 abolished upon the agency's adoption of the rule pursuant to
11 the provisions of section 17A.5.

12

EXPLANATION

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