

Senate Study Bill 1249 - Introduced

SENATE FILE _____
BY ADMINISTRATIVE RULES REVIEW
COMMITTEE

A BILL FOR

1 An Act concerning the rulemaking process for executive branch
2 agencies and related matters.

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

1 Section 1. Section 2B.13, subsection 2, paragraphs b, d, and
2 f, Code 2021, are amended to read as follows:

3 b. Correct references to rules or Code sections, or chapters
4 or subunits thereof, which are cited erroneously or have been
5 repealed, amended, or renumbered.

6 d. Transfer, divide, or combine rules or parts of rules
7 and add or amend catchwords to rules ~~and subrules~~ or parts of
8 rules.

9 f. Update the address, telephone number, facsimile number,
10 ~~or~~ electronic mail address, or internet site address of an
11 agency, officer, or other entity.

12 Sec. 2. Section 2B.17, subsection 5, paragraph a, Code 2021,
13 is amended to read as follows:

14 a. The Iowa Administrative Bulletin shall be cited as the
15 IAB, with references identifying the volume number which may be
16 based on a fiscal year cycle, the issue number, the publication
17 date, and the ARC number assigned to the rulemaking document by
18 the administrative rules coordinator pursuant to section 17A.4
19 or section 17A.5. Subject to the legislative services agency
20 style manual, the citation may also include the publication's
21 page number.

22 Sec. 3. Section 17A.2, subsection 1, Code 2021, is amended
23 to read as follows:

24 1. "Agency" means each board, commission, department,
25 officer or other administrative office or unit of the state.
26 "Agency" does not mean the general assembly or any of its
27 components other than the office of ombudsman, the judicial
28 branch or any of its components, the office of consumer
29 advocate, the governor, or a political subdivision of the
30 state or its offices and units. Unless provided otherwise by
31 statute, no less than two-thirds of the members eligible to
32 vote of a multimember agency constitute a quorum authorized to
33 act in the name of the agency.

34 Sec. 4. Section 17A.2, subsection 11, unnumbered paragraph
35 1, Code 2021, is amended to read as follows:

1 “*Rule*” means each agency statement of general applicability
2 that implements, interprets, or prescribes law or policy,
3 or that describes the organization, procedure, or practice
4 requirements of any agency. ~~Notwithstanding any other statute,~~
5 ~~the term includes an executive order or directive of the~~
6 ~~governor which creates an agency or establishes a program or~~
7 ~~which transfers a program between agencies established by~~
8 ~~statute or rule.~~ The term includes the amendment or repeal of
9 an existing rule, but does not include:

10 Sec. 5. Section 17A.2, subsection 11, paragraph g, Code
11 2021, is amended to read as follows:

12 *g.* A specification of the prices to be charged for goods or
13 services sold by an agency as distinguished from a license fee,
14 application fee, or other fees as described in section 17A.6C.

15 Sec. 6. Section 17A.4, subsection 1, paragraph a, Code 2021,
16 is amended to read as follows:

17 *a.* Give notice of its intended action by submitting
18 the notice to the administrative rules coordinator and
19 the administrative code editor. The administrative rules
20 coordinator shall assign an ARC number to each rulemaking
21 document. The administrative code editor shall publish each
22 notice meeting the requirements of [this chapter](#) in the Iowa
23 administrative bulletin created pursuant to section [2B.5A](#).
24 The legislative services agency shall ~~also submit a copy of~~
25 ~~the notice to provide~~ the chairpersons and ranking members of
26 the appropriate standing committees of the general assembly
27 an opportunity to review an electronic copy of the notice
28 for additional study. Any notice of intended action shall
29 be published at least thirty-five days in advance of the
30 action. The notice shall include a statement of either the
31 terms or substance of the intended action or a description of
32 the subjects and issues involved, and the time when, the place
33 where, and the manner in which interested persons may present
34 their views.

35 Sec. 7. Section 17A.4, subsection 8, Code 2021, is amended

1 to read as follows:

2 8. Upon the vote of two-thirds of its members, the
3 administrative rules review committee, following notice
4 of intended action as provided in subsection 1 and prior
5 to adoption of a rule pursuant to that notice, may suspend
6 ~~further action relating to the agency from adopting that~~
7 notice for seventy days. The adoption of a notice of intended
8 action shall only be suspended once pursuant this subsection.
9 Notice that adoption of a notice of intended action was
10 suspended under this provision shall be published in the Iowa
11 administrative code and bulletin.

12 Sec. 8. Section 17A.5, subsection 1, Code 2021, is amended
13 to read as follows:

14 1. Each agency shall file each rule adopted by the agency
15 with the office of the administrative rules coordinator and
16 provide an exact copy to the administrative code editor. The
17 administrative rules coordinator shall assign an ARC number to
18 each rulemaking document. The administrative ~~rules coordinator~~
19 code editor shall keep a permanent electronic register of the
20 rules open to public inspection. The administrative code
21 editor shall publish each rule adopted in accordance with this
22 chapter in the Iowa administrative code.

23 Sec. 9. Section 17A.6, Code 2021, is amended by adding the
24 following new subsections:

25 NEW SUBSECTION. 1A. For purposes of subsections 2 through
26 5, "*publication*" does not include the Iowa Code, Iowa Acts, Iowa
27 administrative code, or Iowa court rules.

28 NEW SUBSECTION. 4. An agency which adopts a standard by
29 reference to another publication or a portion thereof shall
30 include as part of the reference a date certain, edition or
31 amendment number, or other information identifying the specific
32 version of the publication or the specific point in time from
33 which the text of the publication can be determined. The
34 adoption of a standard by reference to another publication
35 shall not include adoption of any amendment, edition, or

1 version of the publication subsequent to the effective date of
2 the adoption.

3 NEW SUBSECTION. 5. An agency shall include in the preamble
4 to each rule submitted pursuant to section 17A.4 or 17A.5
5 that adopts standards by reference to another publication or
6 portion thereof a brief explanation of the content of the
7 publication or portion and, if the rule updates a reference
8 to a publication previously adopted by reference, a brief
9 explanation of any changes in the content of the publication.

10 Sec. 10. NEW SECTION. 17A.6C **Agency fees — rules.**

11 The amount of a license fee, application fee, or other fee
12 established by an agency, including any subsequent increase or
13 decrease in the amount, shall be specified in a rule adopted by
14 the agency. This section does not apply where the amount of a
15 fee is specifically established in the Iowa Code, Iowa Acts,
16 or by federal law.

17 Sec. 11. Section 17A.8, subsection 1, Code 2021, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. c. The administrative rules coordinator
20 shall serve as an ex officio, nonvoting member.

21 Sec. 12. Section 17A.8, subsections 2, 3, and 10, Code 2021,
22 are amended to read as follows:

23 2. A committee member appointed pursuant to subsection 1,
24 paragraph "a" or "b", shall be appointed as of the convening
25 of a regular session convened in an odd-numbered year. The
26 term of office for a member of the house of representatives
27 shall end upon the convening of the general assembly following
28 the appointment. The term of office for a member of the
29 senate shall end upon the convening of the general assembly
30 after the general assembly following appointment. However, a
31 member shall serve until a successor is appointed. A vacancy
32 on the committee shall be filled by the original appointing
33 authority for the remainder of the term. A vacancy shall exist
34 whenever a committee member appointed pursuant to subsection 1,
35 paragraph "a" or "b", ceases to be a member of the house from

1 which the member was appointed.

2 3. A committee member appointed pursuant to subsection 1,
3 paragraph "a" or "b", shall be paid the per diem specified in
4 section 2.10, subsection 5, for each day in attendance and
5 shall be reimbursed for actual and necessary expenses. There
6 is appropriated from money in the general fund not otherwise
7 appropriated an amount sufficient to pay costs incurred under
8 this section.

9 10. a. Upon the vote of two-thirds of its members, the
10 administrative rules review committee may delay the effective
11 date of a rule or portion of a rule seventy days beyond that
12 permitted in [section 17A.5](#), unless the rule was adopted under
13 [section 17A.5](#), subsection 2, paragraph "b". The effective
14 date of a rulemaking document or portion thereof shall only
15 be delayed once under this subsection. If the rule was
16 adopted under [section 17A.5, subsection 2](#), paragraph "b", the
17 administrative rules review committee, within thirty-five days
18 of the publication of the rule in the Iowa administrative
19 bulletin and upon the vote of two-thirds of its members, may
20 suspend the applicability of the rule or portion of the rule
21 for seventy days. The applicability of a rulemaking document
22 or portion thereof shall only be suspended once under this
23 subsection.

24 b. Notice of an effective date that was delayed or of
25 applicability that was suspended under this provision shall be
26 published in the Iowa administrative code and bulletin.

27 Sec. 13. Section 17A.8, subsection 9, paragraph a, Code
28 2021, is amended to read as follows:

29 a. Upon a vote of two-thirds of its members, the
30 administrative rules review committee may delay the effective
31 date of a rule or portion of a rule until the adjournment of the
32 next regular session of the general assembly, unless the rule
33 was adopted under [section 17A.5, subsection 2](#), paragraph "b".
34 The effective date of a rulemaking document or portion thereof
35 shall only be delayed once under this subsection. If the rule

1 was adopted under [section 17A.5, subsection 2](#), paragraph "b",
2 the administrative rules review committee, within thirty-five
3 days of the publication of the rule in the Iowa administrative
4 bulletin and upon the vote of two-thirds of its members, may
5 suspend the applicability of the rule or portion of the rule
6 until the adjournment of the next regular session of the
7 general assembly. The applicability of a rulemaking document
8 or portion thereof shall only be suspended once under this
9 subsection.

10 Sec. 14. Section 17A.8, subsection 9, Code 2021, is amended
11 by adding the following new paragraph:

12 NEW PARAGRAPH. c. Notice of an effective date that was
13 delayed or of applicability that was suspended under this
14 provision shall be published in the Iowa administrative code
15 and bulletin.

16 Sec. 15. Section 17A.9A, subsection 4, Code 2021, is amended
17 to read as follows:

18 4. A grant or denial of a waiver petition shall be indexed,
19 filed, and available for public inspection as provided
20 in [section 17A.3](#). The administrative code editor and the
21 administrative rules coordinator shall ~~devise~~ maintain an
22 internet site to identify rules for which a petition for a
23 waiver has been granted or denied and make this information
24 available to the public. When an agency grants or denies a
25 waiver, the agency shall submit the information required by
26 this subsection on the internet site within sixty days. The
27 internet site shall identify the rules for which a waiver
28 has been granted or denied, the number of times a waiver was
29 granted or denied for each rule, a citation to the statutory
30 provisions implemented by these rules, and a general summary
31 of the reasons justifying the agencies' actions on the waiver
32 request. To the extent practicable, the agency shall include
33 information detailing the extent to which the granting of a
34 waiver has established a precedent for additional waivers and
35 the extent to which the granting of a waiver has affected the

1 general applicability of the rule itself.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to the administrative rulemaking process
6 for executive branch agencies under Code chapter 17A, the Iowa
7 administrative procedure Act.

8 The bill allows the administrative code editor to update
9 the internet site address of an agency, officer, or other
10 entity when preparing the copy for an edition of the Iowa
11 administrative code or Iowa administrative bulletin. The
12 bill also allows the administrative code editor to correct
13 references to chapters or subunits of rules or Code sections
14 that are cited erroneously or have been repealed, amended, or
15 renumbered, and to add or amend catchwords to parts of rules.

16 The bill provides that a citation to the Iowa administrative
17 bulletin shall include the publication date and the ARC number
18 of an adopted rulemaking document.

19 The bill provides that the exclusion of the legislative
20 branch from the definition of "agency" in Code chapter 17A
21 includes components of the legislative branch, but does not
22 include the office of ombudsman.

23 The bill strikes language providing that an executive
24 order or directive of the governor which creates an agency or
25 establishes a program or which transfers a program between
26 agencies established by statute or rule is included in the
27 definition of "rule" in Code chapter 17A.

28 The bill strikes language requiring that an agency submit
29 a copy of a notice of intended action to the chairpersons
30 and ranking members of the appropriate standing committees
31 of the general assembly. The bill instead requires that the
32 legislative services agency provide the chairpersons and
33 ranking members an opportunity to review an electronic copy of
34 such notices.

35 The bill strikes language allowing the administrative

1 rules review committee (ARRC), by a vote of two-thirds of its
2 members, to suspend further action relating to a notice of
3 intended action for 70 days. The bill instead allows the ARRC,
4 by a vote of two-thirds of its members, to suspend the agency
5 from adopting a notice for 70 days. The bill provides that
6 adoption of a notice may only be suspended once.

7 The bill strikes language requiring the administrative rules
8 coordinator to keep a permanent register of rules open to the
9 public. The bill instead requires the administrative code
10 editor to keep a permanent electronic register of rules open
11 to the public.

12 The bill requires an agency which adopts a standard by
13 reference to another publication or a portion thereof to
14 include as part of the reference a date certain, edition or
15 amendment number, or other information identifying the specific
16 version of the publication or the specific point in time from
17 which the text of the publication can be determined. The
18 adoption of a standard by reference to another publication
19 shall not include adoption of any amendment, edition, or
20 version of the publication subsequent to the effective date of
21 the adoption.

22 The bill requires an agency to include in the preamble to
23 each rule submitted for publication that adopts standards by
24 reference to another publication or portion thereof a brief
25 explanation of the content of the publication or portion and,
26 if the rule updates a reference to a publication previously
27 adopted by reference, a brief explanation of any changes in the
28 content of the publication.

29 The bill provides that "publication", for purposes of
30 requirements of Code chapter 17A relating to adoption by
31 agencies of standards by reference to other publications, does
32 not include the Iowa Code, Iowa Acts, Iowa administrative code,
33 or Iowa court rules.

34 The bill provides that the amount of a license fee,
35 application fee, or other fee established by an agency,

1 including any subsequent increase or decrease in the amount,
2 shall be specified in a rule adopted by the agency. The
3 requirement does not apply where the amount of a fee is
4 specifically established in the Iowa Code, Iowa Acts, or by
5 federal law.

6 The bill provides that the administrative rules coordinator
7 shall serve as an ex officio, nonvoting member of the ARRC.

8 The bill provides that the delay of an effective date
9 of a rule for 70 days or until the adjournment of the next
10 regular session of the general assembly, or the suspension of
11 applicability of a rule for 70 days or until the adjournment of
12 the next regular session of the general assembly, by the ARRC
13 may each only occur once per rulemaking document.

14 The bill provides that notice of the delay of an effective
15 date or suspension of applicability of a rule until the
16 adjournment of the next regular session of the general
17 assembly shall be published in the Iowa administrative code and
18 bulletin.

19 The bill modifies terminology relating to the internet site
20 used to identify rules for which a petition for a waiver has
21 been granted or denied.