

House File 688 - Introduced

HOUSE FILE 688
BY ADMINISTRATIVE RULES REVIEW
COMMITTEE

(SUCCESSOR TO HSB 81)

A BILL FOR

1 An Act concerning the rulemaking process for executive branch
2 agencies and related matters and including effective date
3 provisions.

4 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 2023, are amended to read as follows:

3 b. Correct references to rules or Code sections, or
4 chapters or subunits of rules or Code sections, which are cited
5 erroneously or have been repealed, amended, or renumbered.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 2023,
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 17A.5. Subject to the legislative services agency style
20 manual, the citation may also include the publication's page
21 number.

22 Sec. 3. Section 17A.2, subsection 1, Code 2023, 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, paragraph g, Code
35 2023, is amended to read as follows:

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

4 Sec. 5. Section 17A.4, subsection 1, paragraph a, Code 2023,
5 is amended to read as follows:

6 a. Give notice of its intended action by submitting
7 the notice to the administrative rules coordinator and
8 the administrative code editor. The administrative rules
9 coordinator shall assign an ARC number to each rulemaking
10 document. The administrative code editor shall publish each
11 notice meeting the requirements of this chapter in the Iowa
12 administrative bulletin created pursuant to section 2B.5A. The
13 legislative services agency shall ~~also submit a copy of the~~
14 ~~notice to~~ provide the chairpersons and ranking members of the
15 appropriate standing committees of the general assembly a means
16 to receive an electronic copy of the notice for additional
17 study. Any notice of intended action shall be published at
18 least thirty-five days in advance of the action. The notice
19 shall include a statement of either the terms or substance of
20 the intended action or a description of the subjects and issues
21 involved, and the time when, the place where, and the manner in
22 which interested persons may present their views.

23 Sec. 6. Section 17A.4, subsection 8, Code 2023, is amended
24 to read as follows:

25 8. Upon the vote of two-thirds of its members, the
26 administrative rules review committee, following notice of
27 intended action as provided in subsection 1 and prior to
28 adoption of a rule pursuant to that notice, may suspend ~~further~~
29 ~~action relating to~~ the agency from adopting that notice for
30 seventy days. Notice that adoption of a notice of intended
31 action was suspended under this provision shall be published in
32 the Iowa administrative code and bulletin.

33 Sec. 7. Section 17A.5, subsection 1, Code 2023, is amended
34 to read as follows:

35 1. Each agency shall file each rule adopted by the agency

1 with the office of the administrative rules coordinator and
2 provide an exact copy to the administrative code editor. The
3 administrative rules coordinator shall assign an ARC number to
4 each rulemaking document. The administrative ~~rules coordinator~~
5 code editor shall keep a permanent electronic register of the
6 rules open to public inspection. The administrative code
7 editor shall publish each rule adopted in accordance with this
8 chapter in the Iowa administrative code.

9 Sec. 8. Section 17A.6, Code 2023, is amended to read as
10 follows:

11 **17A.6 Publications — copy of standards adopted by reference.**

12 01. For purposes of subsections 2 through 5, unless the
13 context otherwise requires:

14 a. "Adopt by reference" or "adoption by reference" means
15 incorporating the text of a cited publication, or a part
16 thereof, into a rule without including the text of the
17 publication in the rule.

18 b. "Publication" does not include the Iowa Code, Iowa Acts,
19 Iowa administrative code, Iowa court rules, or uniform rules on
20 agency procedure.

21 1. The administrative code editor shall publish the Iowa
22 administrative bulletin and the Iowa administrative code as
23 provided in [section 2B.5A](#).

24 2. An agency ~~which~~ that adopts standards by reference to
25 another publication shall deliver ~~an electronic~~ a printed copy
26 of the publication, or the relevant part of the publication,
27 containing the standards to the administrative code editor
28 who shall ~~publish it on the general assembly's internet site.~~
29 ~~If an electronic copy of the publication is not available,~~
30 ~~the agency shall deliver a printed copy of the publication to~~
31 ~~the administrative code editor who shall deposit the copy in~~
32 ~~the state law library where it~~ which shall be made make it
33 available for inspection and reference. The agency may instead
34 deposit a printed copy of the publication, or the relevant part
35 of the publication, in the state law library directly. This

1 subsection does not apply to a publication that is a federal
2 statute or regulation.

3 3. In lieu of the procedures established in **subsection 2**,
4 an agency may establish alternative procedures providing for
5 public access to an electronic or printed copy of a publication
6 containing standards adopted by reference if the publication is
7 proprietary or contains proprietary information.

8 4. An agency that adopts standards by reference to another
9 publication or a part thereof shall include as part of the
10 reference a date certain, edition or amendment number, or other
11 information identifying the specific version of the publication
12 or the specific point in time from which the text of the
13 publication can be determined. The adoption of standards by
14 reference to another publication or a part thereof shall not
15 include adoption of any amendment, edition, or version of the
16 publication subsequent to the effective date of the adoption.
17 This subsection does not apply when the adoption of amendments,
18 editions, or versions of a publication subsequent to the
19 effective date of the adoption is explicitly required by a
20 provision of the Code or Acts.

21 5. An agency shall include in the preamble to each rule
22 submitted pursuant to section 17A.4 or 17A.5 that adopts
23 standards by reference to another publication or part thereof a
24 brief explanation of the content of the publication or part.
25 If such a rule updates a reference to a publication previously
26 adopted by reference, the agency shall include in the preamble
27 a brief explanation of any significant changes in the content
28 of the publication or part.

29 **Sec. 9. NEW SECTION. 17A.6C Agency fees — rules.**

30 The amount of a license fee, application fee, or other fee
31 established by an agency, including any subsequent increase or
32 decrease in the amount, shall be specified in a rule adopted by
33 the agency. This section does not apply when the amount of a
34 fee is specifically established or described in the Iowa Code,
35 Iowa Acts, Iowa court rules, or by federal law.

1 Sec. 10. Section 17A.8, subsection 1, Code 2023, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *c.* The administrative rules coordinator
4 shall serve as an ex officio, nonvoting member.

5 Sec. 11. Section 17A.8, subsections 2 and 3, Code 2023, are
6 amended to read as follows:

7 2. A committee member appointed pursuant to subsection 1,
8 paragraph "a" or "b", shall be appointed as of the convening of
9 a regular session convened in an odd-numbered year. The term
10 of office for a member from the house of representatives shall
11 end upon the convening of the general assembly following the
12 appointment. The term of office for a member from the senate
13 shall end upon the convening of the general assembly after the
14 general assembly following appointment. However, a member
15 shall serve until a successor is appointed. A vacancy on the
16 committee shall be filled by the original appointing authority
17 for the remainder of the term. A vacancy shall exist whenever
18 a committee member ceases to be a member of the house from
19 which the member was appointed.

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

27 Sec. 12. Section 17A.8, subsection 9, Code 2023, is amended
28 by adding the following new paragraph:

29 NEW PARAGRAPH. *c.* Notice of an effective date that was
30 delayed or of applicability that was suspended under this
31 provision shall be published in the Iowa administrative code
32 and bulletin.

33 Sec. 13. Section 17A.8, subsection 10, paragraph b, Code
34 2023, is amended to read as follows:

35 *b.* Notice of an effective date that was delayed or of

1 applicability that was suspended under this provision shall be
2 published in the Iowa administrative code and bulletin.

3 Sec. 14. EFFECTIVE DATE. This Act takes effect January 1,
4 2024.

5

EXPLANATION

6

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

8

9 This bill concerns the administrative rulemaking process
10 for executive branch agencies under Code chapter 17A, the Iowa
11 administrative procedure Act, and related matters.

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

20 The bill provides that a citation to the Iowa administrative
21 bulletin may include the publication date and the ARC number of
22 an adopted rulemaking document.

23 The bill provides that the exclusion of the legislative
24 branch from the definition of "agency" in Code chapter 17A
25 includes components of the legislative branch other than the
26 office of ombudsman.

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

34 The bill strikes language allowing the administrative
35 rules review committee (ARRC), by a vote of two-thirds of its
members, to suspend further action relating to a notice of

1 intended action for 70 days. The bill instead allows the ARRC,
2 by a vote of two-thirds of its members, to suspend an agency
3 from adopting a notice for 70 days.

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

9 The bill strikes language requiring an agency that adopts
10 standards by reference to another publication to deliver an
11 electronic copy of the publication, or the relevant part of the
12 publication, to the administrative code editor for publication
13 on the general assembly's internet site or to deliver a printed
14 copy to the administrative code editor for deposit in the state
15 law library if an electronic copy is not available. The bill
16 instead requires such an agency to deliver a printed copy of
17 the publication or part to the administrative code editor for
18 deposit in the state law library or to deposit a copy in the
19 state law library directly. This requirement does not apply to
20 a publication that is a federal statute or regulation.

21 The bill requires an agency that adopts standards by
22 reference to another publication or a portion thereof to
23 include as part of the reference a date certain, edition or
24 amendment number, or other information identifying the specific
25 version of the publication or the specific point in time from
26 which the text of the publication can be determined. The
27 adoption of standards by reference to another publication shall
28 not include adoption of any amendment, edition, or version
29 of the publication subsequent to the effective date of the
30 adoption. These requirements do not apply when the adoption of
31 amendments, editions, or versions of a publication subsequent
32 to the effective date of the adoption is explicitly required by
33 a provision of the Iowa Code or Iowa Acts.

34 The bill requires an agency to include in the preamble to
35 each noticed or adopted rule that adopts standards by reference

1 to another publication or portion thereof a brief explanation
2 of the content of the publication or portion and, if the rule
3 updates a reference to a publication previously adopted by
4 reference, a brief explanation of any significant changes in
5 the content of the publication.

6 The bill provides that "publication", for purposes of
7 requirements of Code chapter 17A relating to adoption by
8 agencies of standards by reference to other publications, does
9 not include the Iowa Code, Iowa Acts, Iowa administrative code,
10 Iowa court rules, or uniform rules on agency procedure.

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

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

20 The bill provides that notice of certain delays of an
21 effective date or suspensions of applicability of a rule shall
22 be published in the Iowa administrative code and bulletin.

23 The bill takes effect January 1, 2024.