Proposed 260E Administrative Rules (ARC 0629D)

Community College Recommendations for the HF 2799 Interim Study Committee

The proposed administrative rules (ARC 0629D) contain several provisions that would impose requirements, restrictions, or approval authorities that were considered during the legislative process but were ultimately not included in HF 2799. In addition to going beyond the legislation, these changes would also place an undue and unnecessary burden on the companies that participate in this program.

These provisions also raise questions under Executive Order 10, which directs state agencies to review administrative rules and eliminate those that exceed statutory authority, impose unnecessary regulatory burdens, duplicate statutory requirements, or create obligations not clearly authorized by law. Executive Order 10 states that administrative rules should be limited to implementing laws enacted by the Legislature, not creating new policy choices through the rulemaking process. In several instances, the proposed rules appear to establish requirements that the Legislature considered and declined to enact. When an agency adopts through rule what was not adopted in statute, it risks substituting administrative judgment for legislative intent.

1. Preserve "eligible training" opportunities needed by businesses

The proposed rules would exclude communication, leadership development, interpersonal skills, team building, conflict management, and similar training by classifying them as behavioral skills. HF 2799 does not exclude these forms of training. Iowa businesses consistently identify these skills as essential workforce needs. Excluding them by rule would remove training options the legislature did not choose to prohibit and would make the program less responsive to the real skill gaps employers are trying to address.

2. Remove the up-front 30% business cash match

The proposed rules state that a business "is required to pay 30% of the total program costs" before receiving reimbursement or on-the-job training funds; requires companies to submit receipts; requires colleges to "bundle" those receipts and certify the expenditure to IWD "for approval"; and prohibits release of program funds until IWD has reviewed and approved the thirty-percent threshold. None of those specific requirements appear in HF 2799.

The statute establishes a financing ceiling: a bond "shall not exceed seventy percent of total program costs related to training expenses." It does not say that the remaining thirty percent must be paid up front, documented through a bundled-receipt submission, or approved by IWD before program funds may be released. Treating that financing limitation as an automatic, up-front thirty-percent employer cash-match requirement would effectively restore a substantive employer-contribution mandate that the legislator did not enact.

3. Distinguish necessary legal fees from employer reimbursement

HF 2799 and the proposed rules provide that *program costs* "are not incurred to reimburse travel, conferences, or legal fees." This does not, however, seem to include legal services necessarily

incurred by a community college to issue and administer the bonds that Chapter 260E continues to authorize.

It would not be appropriate to apply the prohibition on program costs incurred "to reimburse" legal fees to necessary bond counsel or comparable legal services incurred by a community college to lawfully issue and administer the financing contemplated by Chapter 260E. The legislature expressly retained the bond-financing structure, so a construction that categorically prohibits the legal services necessary to issue the bonds authorized by the same chapter would create a significant practical problem without clear statutory language indicating that result.

4. Uphold limited IWD review and feedback role

The proposed rules would require a community college to submit the final agreement and project training plan directly to IWD no later than thirty days before publication of certificates, provides IWD an unspecified amount of time to evaluate the documents "for compliance," directs IWD to issue a list of "corrections," and states that program requirements must be met "to the departments satisfaction" before the agreement is included in a bond issue. The statute does not authorize IWD to approve or disapprove an agreement, require corrections, or make IWD approval a condition to bond issuance.

The legislature authorized IWD to "review" and provide "feedback." It did not use the words "approve," "certify," "authorize," "correct," or similar mandatory language. It also did not provide that an agreement is ineffective unless IWD concurs. The final legislation did not adopt an approval framework considered in an early Senate bill version. Instead, it enacted the narrower review-and-feedback process outlined here. The proposed rules should not recreate through administrative direction an approval role the legislature did not enact.

5. Withdraw the expanded definition of "New job"

The proposed rules appear to expand on the amended definition of "new job." HF 2799 struck the prior definition in its entirety and replaced it with a shorter definition: a "new job" is "a new, permanent, full-time equivalent position added to an employer's payroll, at the location of the employer's project, in excess of the employer's base employment level."

The proposed rules repeat that language but add several exclusions and conditions, including exclusions for recalled workers, replacement jobs, reclassified jobs, certain jobs following a change in ownership, and upskilling of current employees, together with a proof requirement concerning changes in role or production. This goes directly against the intent of Executive Order 10.

6. Maintain the 15% administrative fee cap

The language included in HF 2799 clearly states that a community college may be reimbursed from certificate proceeds for an administrative fee of up to 15%. The proposed rules, however, reduce that amount to 7%, making a substantive policy change that the legislature did not enact. This would significantly affect the ability of community colleges to administer the program, support employers, and carry out the broader workforce development efforts that 260E was created to advance.