SENATE FILE 2370
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3119)

(As Amended and Passed by the Senate March 4, 2024)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act concerning the executive branch rulemaking process and other agency functions and related matters.

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

DIVISION I

RULEMAKING AND RELATED MATTERS

Section 1. Section 2B.5A, subsection 4, Code 2024, is amended by striking the subsection.

Sec. 2. Section 8A.206, subsection 2, paragraph b, Code 2024, is amended to read as follows:

b. Maintain, as an integral part of the law library, reports of various boards and agencies~~,~~; copies of journals of the senate and house of representatives; electronic access to bills~~, journals,~~ and other information relating to current or proposed legislation~~, copies of~~; and electronic access to the Iowa administrative bulletin and Iowa administrative code ~~and, consistent with section 17A.6, subsection 3, copies of any publications incorporated by reference in the bulletin or code~~.

Sec. 3. Section 10A.506, subsection 10, Code 2024, is amended to read as follows:

10. Notwithstanding section 17A.6, subsection 3, the licensing boards included within the department pursuant to subsection 1 may adopt standards by reference to another publication without ~~providing a copy of~~ posting the publication to the ~~administrative code editor~~ boards' internet sites if the publication containing the standards is readily accessible on the internet at no cost and the internet site at which the publication may be found is included in the administrative rules that adopt the standard.

Sec. 4. Section 17A.3, subsection 1, paragraphs a, b, and c, Code 2024, are amended by striking the paragraphs.

Sec. 5. Section 17A.4, subsection 1, unnumbered paragraph 1, Code 2024, is amended to read as follows:

Prior to the adoption, amendment, or repeal of any rule an agency shall submit the proposed rulemaking for preclearance to the administrative rules coordinator in the manner prescribed by the administrative rules coordinator and do all of the following:

Sec. 6. Section 17A.4, subsection 3, paragraph a, Code 2024,

is amended to read as follows:

a. When the statute so provides, or with the approval of the administrative rules review committee, if the committee finds good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable. However, the requirement for prior submission to the administrative rules coordinator for preclearance shall remain applicable.

Sec. 7. Section 17A.4A, subsections 1 and 5, Code 2024, are amended to read as follows:

1. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, ~~paragraph~~ paragraphs "*a*" and "*b*", ~~if, within thirty-two days after the published notice of proposed rule adoption, a written request for the analysis is submitted to the agency by the administrative rules review committee or the administrative rules coordinator. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, paragraph "b", if the rule would have a substantial impact on small business and if, within thirty-two days after the published notice of proposed rule adoption, a written request for analysis is submitted to the agency by the administrative rules review committee, the administrative rules coordinator, at least twenty-five persons signing that request who each qualify as a small business or by an organization representing at least twenty-five such persons. If a rule has been adopted without prior notice and an opportunity for public participation in reliance upon~~ prior to submitting a notice of intended action to the administrative rules coordinator and the administrative code editor pursuant to section 17A.4, subsection ~~3~~ 1, ~~the written request for an analysis that complies with subsection 2,~~ paragraph "*a*" ~~or "b",~~ ~~may be made within seventy days of publication of the rule~~.

5. The agency shall not submit a notice of intended action to the administrative rules coordinator and the administrative code editor pursuant to section 17A.4, subsection 1, paragraph

"a", for a proposed rule until the conclusion of the opportunity for oral presentation required by subsection 4 and preclearance by the administrative rules coordinator as required by section 17A.4, subsection 1. In the case of a rule adopted without prior notice and an opportunity for public participation in reliance upon section 17A.4, subsection 3, the ~~summary must be published within~~ agency shall have until seventy days ~~of~~ after the ~~request~~ adoption to submit a regulatory analysis as described in subsection 4 for publication in the Iowa administrative bulletin. If a rule adopted in reliance upon section 17A.4, subsection 3, will be published in the Iowa administrative bulletin concurrently with a corresponding notice of intended action, a separate regulatory analysis for the notice of intended action is not required.

Sec. 8. Section 17A.4A, subsection 2, paragraph a, unnumbered paragraph 1, Code 2024, is amended to read as follows:

~~Except to the extent that a written request for a regulatory analysis expressly waives one or more of the following, the~~ The regulatory analysis must contain all of the following:

Sec. 9. Section 17A.4A, subsection 4, Code 2024, is amended by striking the subsection and inserting in lieu thereof the following:

4. The agency shall submit the regulatory analysis to the administrative code editor, who shall publish it in the Iowa administrative bulletin. The regulatory analysis shall include a statement of either the terms or substance of the agency's intended action or a description of the subjects and issues involved. The agency shall afford all interested persons not less than twenty days to submit data, views, or arguments in writing, and the regulatory analysis shall include the time when, the place where, and the manner in which interested persons may do so. The agency shall give interested persons an opportunity to make oral presentation on the regulatory analysis. The opportunity for oral presentation shall be held

at least twenty days after publication of its time and place in the Iowa administrative bulletin.

Sec. 10. Section 17A.4A, subsection 6, Code 2024, is amended by striking the subsection.

Sec. 11. Section 17A.6, subsection 3, Code 2024, is amended to read as follows:

3. An agency that adopts standards by reference to another publication shall ~~deliver a printed copy of~~ post the publication, or the relevant part of the publication, containing the standards ~~to the administrative code editor who shall deposit the copy in the state law library which shall make it available for inspection and reference~~ on the agency's internet site. ~~The agency may instead deposit a printed copy of the publication, or the relevant part of the publication, in the state law library directly~~ An agency shall not post a link for this purpose to an internet site that is not maintained by the agency. If a posted publication or part of a publication varies from the publication or part adopted by reference as described in subsection 5, the adoption by reference described in subsection 5 shall control. This subsection does not apply to a publication that is a federal statute or regulation.

Sec. 12. Section 17A.7, subsection 2, Code 2024, is amended to read as follows:

2. Beginning ~~July~~ January 1, ~~2012~~ 2027, ~~over each five-year period of time, an~~ each agency shall conduct an ongoing and comprehensive review of all of the agency's rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies. ~~An~~ Over each five-year period of time, an agency shall ~~commence its review by developing a plan of review in consultation with major stakeholders and constituent groups~~ perform a retrospective analysis that includes a comprehensive evaluation and rigorous cost-benefit analysis of each existing chapter of rules to determine whether the benefits the rules

are intended to achieve are being realized, whether those benefits justify the costs imposed by the rules, and whether there are less restrictive alternatives to accomplish those benefits. When the agency completes the five-year review of the agency's ~~own~~ rules, the agency shall provide a written summary of the results to the administrative rules coordinator and the administrative rules review committee. The summary shall include all of the following for each chapter of rules:

a. The intended benefits of the rules and if the benefits are being achieved.

b. The costs imposed by the rules and if the costs are justified by the benefits identified in paragraph *"a"*.

c. Less restrictive alternatives to the rules and an analysis of how other states regulate the activities addressed by the chapter.

Sec. 13. Section 17A.7, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 3. *a.* Each chapter of rules is rescinded five years after the date on which the chapter as a whole became effective. A chapter rescinded in this manner ceases to be effective as of the date of rescission. Before or after such rescission occurs, the agency that adopted the chapter may adopt the chapter anew after completing a retrospective analysis as described in subsection 2. Such adoption shall be subject to this chapter. An agency adopting a chapter anew as described in this subsection shall do so from a zero base. Adoption of a chapter anew as described in this subsection shall not include notation in a rulemaking document published in the Iowa administrative bulletin of additions to or deletions from the language of the prior chapter. For purposes of this subsection, *"zero base"* means adoption of a chapter anew without merely adopting the prior language of the chapter and without any presumption in favor of utilizing the prior language when the chapter is adopted anew.

b. The effective date of adoption, amendment, or rescission

of individual rules or portions of rules in a chapter, and the date of any changes to the chapter or rules or portions of rules in the chapter pursuant to section 2B.13, shall not be considered when determining the effective date of the chapter as a whole for purposes of this subsection. The date of rescission of a chapter under paragraph "a" shall not be altered if such date falls on a Saturday, Sunday, or holiday.

c. (1) If a chapter has been rescinded under this subsection, the agency that adopted the chapter shall notify the administrative code editor in writing of the rescission. The administrative rules coordinator may notify the administrative code editor in writing on behalf of the agency.

(2) As soon as practicable after receiving such notification, the administrative code editor shall publish notice of the rescission in the Iowa administrative bulletin and, no sooner than two weeks after such publication, remove the chapter from the Iowa administrative code.

d. When a chapter of rules becoming effective as a whole is published in the Iowa administrative code, the administrative code editor shall include the next rescission date of the chapter, as provided in this subsection, with the chapter.

e. For a chapter of rules that most recently became effective as a whole prior to January 1, 2023, the effective date of the chapter shall be deemed January 1, 2023, for purposes of this subsection. For a chapter that most recently became effective as a whole on or after January 1, 2023, the date of rescission pursuant to this subsection shall be based on the most recent effective date of the chapter as a whole.

Sec. 14. Section 17A.19, subsection 10, paragraphs b, c, l, and m, Code 2024, are amended to read as follows:

b. Beyond the authority explicitly delegated to the agency by any provision of law or in violation of any provision of law.

c. Based upon an erroneous interpretation of a provision of law whose interpretation has not ~~clearly~~ explicitly been vested

by a provision of law in the discretion of the agency.

l. Based upon an irrational, illogical, or wholly unjustifiable interpretation of a provision of law whose interpretation has ~~clearly~~ explicitly been vested by a provision of law in the discretion of the agency.

m. Based upon an irrational, illogical, or wholly unjustifiable application of law to fact that has ~~clearly~~ explicitly been vested by a provision of law in the discretion of the agency.

Sec. 15. Section 17A.19, subsection 11, paragraphs a, b, and c, Code 2024, are amended to read as follows:

a. Shall not give any deference to the view of the agency with respect to whether particular matters have been explicitly vested by a provision of law in the discretion of the agency.

b. Should not give any deference to the view of the agency with respect to particular matters that have not been explicitly vested by a provision of law in the discretion of the agency.

c. Shall give appropriate deference to the view of the agency with respect to particular matters that have been explicitly vested by a provision of law in the discretion of the agency.

Sec. 16. Section 17A.23, subsections 3 and 4, Code 2024, are amended to read as follows:

3. *a.* An agency shall have only that authority or discretion explicitly delegated to or explicitly conferred upon the agency by law and shall not expand or enlarge its authority or discretion beyond the powers explicitly delegated to or explicitly conferred upon the agency. Unless otherwise ~~specifically~~ explicitly provided in statute, a grant of rulemaking authority shall be construed narrowly.

b. Rulemaking authority is explicitly delegated to or explicitly conferred on an agency as follows:

(1) An agency may adopt rules interpreting the provisions of any statute enforced or administered by the agency if a

statute explicitly grants the agency rulemaking authority over the statutory provision; however, a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the adoption of a rule interpreting the provisions of a statute enforced or administered by an agency:

(a) A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not delegate rulemaking authority to or confer rulemaking authority on the agency, or augment the agency's rulemaking authority, beyond the rulemaking authority that is explicitly delegated to or explicitly conferred on the agency by a statute.

(b) A statutory provision describing the agency's general powers or duties does not delegate rulemaking authority to or confer rulemaking authority on the agency, or augment the agency's rulemaking authority, beyond the rulemaking authority that is explicitly delegated to or explicitly conferred on the agency by a statute.

(c) A statutory provision containing a specific standard, requirement, or threshold does not delegate to or confer on the agency the authority to adopt, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

(2) An agency may prescribe forms and procedures in connection with any statute enforced or administered by the agency if the agency considers such prescription necessary to effectuate the purpose of the statute, but this subparagraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.

(3) An agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from the agency's decisions by adopting the general policies as rules that the agency shall follow until such rules are amended or repealed. A rule adopted in accordance with this

subparagraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

(4) An agency may adopt rules implementing or interpreting a statute that the agency will enforce or administer after enactment of the statute but prior to the statute's effective date. A rule adopted under this subparagraph shall not take effect prior to the effective date of the statute that the rule implements or interprets.

4. An agency shall not implement or enforce any standard, requirement, or threshold, including any term or condition of a permit or license issued by the agency, unless that standard, requirement, or threshold is ~~clearly~~ explicitly required or ~~clearly~~ explicitly permitted by a state statute, rule adopted pursuant to this chapter, or a federal statute or regulation, or is explicitly required by a court ruling, a state or federal executive order, a state or federal directive that would result in the gain or loss of specific funding, or a federal waiver.

Sec. 17. NEW SECTION. **17A.24 Uniform rules on agency procedure.**

1. The administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such adoption and such rules shall be subject to this chapter. Such rules may address the subjects of agency procedures for rulemaking, petitions for rulemaking, waiver of rules, declaratory orders, contested cases, and fair information practices.

2. If an agency does not have rules in effect that address a subject provided in subsection 1, and uniform rules on agency procedure addressing the subject are in effect, such uniform rules shall apply to the agency as though the agency had adopted them.

3. An agency may adopt rules providing for additions, exceptions, or amendments to a uniform rule on agency procedure that, pursuant to subsection 2, is applicable to the agency.

4. This section does not apply to uniform rules on agency procedure published prior to January 1, 2024, and does not affect the validity of rules that have adopted such uniform rules by reference.

5. The attorney general shall assist the administrative rules coordinator in implementation of this section upon request.

Sec. 18. Section 89.5, subsection 3, Code 2024, is amended by striking the subsection.

Sec. 19. Section 89A.3, subsection 5, Code 2024, is amended by striking the subsection.

Sec. 20. Section 455B.173, subsection 2, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* Rules adopted to implement this subsection are not subject to section 17A.7, subsection 2 or 3.

Sec. 21. Section 455B.176A, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Rules adopted to implement this subsection are not subject to section 17A.7, subsection 2 or 3.

Sec. 22. Section 505.35, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 17A.6, subsection 3, the commissioner may adopt standards by reference to another publication without posting the publication to the department of insurance and financial services' internet site if the publication containing the standards is readily accessible on the internet at no cost and the internet site at which the publication may be found is included in the administrative rules that adopt the standard.

DIVISION II

EXECUTIVE BRANCH AGENCY FUNCTIONS

Sec. 23. Section 103.31, subsection 6, Code 2024, is amended to read as follows:

6. The board shall establish an internet-based licensure verification database for access by a state or local inspector

for verification of licensee status. The database shall include the name of every person licensed under this chapter and a corresponding licensure number. However, the licensee's home address, home telephone number, and other personal information as determined by rule shall be confidential. Inspectors shall be authorized to request the name and license number of any person working at a job site subject to inspection for verification of licensee status. Licensees under this chapter shall be required to carry a copy of their current license and photo identification at all times when employed on a job site for compliance with this subsection.

Sec. 24. Section 105.20, subsection 5, paragraph a, Code 2024, is amended to read as follows:

a. ~~The board shall establish continuing education requirements pursuant to section 272C.2.~~ The basic continuing education requirement for renewal of a license shall be the completion, during the immediately preceding license term, of the number of classroom hours of instruction required by the board in courses or seminars which have been approved by the board. The board shall require at least eight classroom hours of instruction during each three-year licensing term.

Sec. 25. Section 256.7, subsection 6, Code 2024, is amended to read as follows:

6. Hear appeals of persons aggrieved by decisions of boards of directors of school corporations under chapter 290 and other appeals prescribed by law in a manner consistent with chapter 17A. The state board may review the record and shall review the proposed decision of the director of the department of education or the administrative law judge employed by the division of administrative hearings created by section 10A.801 and designated for any appeals heard and decided by the director under chapter 290 pursuant to section 17A.15, subsection 3, and may affirm, modify, or vacate the decision, or may direct a rehearing before the director.

Sec. 26. Section 272C.1, subsection 6, Code 2024, is amended

by adding the following new paragraph:

NEW PARAGRAPH. *ag.* The real estate appraiser examining board, created pursuant to chapter 543D.

Sec. 27. Section 272C.2, subsection 1, Code 2024, is amended to read as follows:

1. Each licensing board ~~shall~~ may require and issue rules for continuing education requirements as a condition to license renewal.

Sec. 28. Section 272C.2, subsection 2, unnumbered paragraph 1, Code 2024, is amended to read as follows:

The rules ~~shall~~ may create continuing education requirements at a minimum level prescribed by each licensing board. These boards may also establish continuing education programs to assist a licensee in meeting such continuing education requirements. ~~Such~~ If adopted, such rules shall also:

Sec. 29. Section 290.5, Code 2024, is amended to read as follows:

290.5 Decision of state board — rules for appeals.

The decision of the state board shall be final. The state board may adopt rules of procedure for hearing appeals which shall include the power to delegate the actual hearing of the appeal to the director of the department of education or the director's designee, and members of the director's staff designated by the director. The record of appeal so heard shall be available to the state board, and, if required by section 256.7, subsection 6, the decision recommended by the director of the department of education or the designated administrative law judge shall be approved by the state board in the manner provided ~~in section 256.7, subsection 6~~ therein.

Sec. 30. Section 450.6, subsection 2, Code 2024, is amended by striking the subsection.

Sec. 31. Section 455B.133, subsections 1 and 2, Code 2024, are amended to read as follows:

1. Develop comprehensive plans and programs for the abatement, control, and prevention of air pollution in this

state, recognizing varying requirements for different areas in the state. The plans may include emission limitations, schedules and timetables for compliance with the limitations, measures to prevent the significant deterioration of air quality and other measures as necessary to assure attainment and maintenance of ambient air quality standards. The commission is not required to use air dispersion modeling as a basis for making its findings under this subsection for a minor source or minor modification of a major stationary source unless modeling is specifically provided for under the federal Clean Air Act as amended through January 1, 1991, rules adopted under this chapter, or a federal or state agreement.

2. Adopt, amend, or repeal rules pertaining to the evaluation, abatement, control, and prevention of air pollution. The rules may include those that are necessary to obtain approval of the state implementation plan under section 110 of the federal Clean Air Act as amended through January 1, 1991. The commission is not required to adopt rules that use air dispersion modeling for a minor source or minor modification of a major stationary source unless modeling is specifically required by the federal Clean Air Act as amended through January 1, 1991, or a federal or state agreement.

Sec. 32. Section 455B.134, subsection 3, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* The department is not required to use air dispersion modeling as a basis for making its findings under this subsection for a minor source or minor modification of a major stationary source unless modeling is specifically provided for under the federal Clean Air Act as amended through January 1, 1991, rules adopted under this chapter, or a federal or state agreement.

Sec. 33. Section 509A.5, subsection 2, Code 2024, is amended to read as follows:

2. Any interest earnings from investments or time deposits of the funds under the control of the ~~state executive council~~

department of administrative services shall be deposited to the credit of these funds.

Sec. 34. Section 509A.11, subsection 1, Code 2024, is amended to read as follows:

1. *"Governing body"* means the ~~executive council of the state~~ director of the department of administrative services, the school boards of school districts, and the superintendent or other person in charge of an institution supported in whole or in part by public funds.

Sec. 35. Section 543D.7, Code 2024, is amended to read as follows:

543D.7 Certification process.

Applications for original certification, renewal certification, and examinations shall be made ~~in writing~~ to the board ~~on forms approved by~~ through the ~~board~~ board's electronic system.

Sec. 36. Section 543D.9, Code 2024, is amended to read as follows:

543D.9 Education and experience requirement.

The board shall determine what real estate appraisal or real estate appraisal review experience and what education shall be required to provide appropriate assurance that an applicant for certification is competent to perform the certified appraisal work which is within the scope of practice defined by the board. All experience required for initial certification shall be performed as a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser who meets the supervisory requirements established by applicable federal authorities or federal law, rule, or policy in effect at the time the hours of experience are claimed, except as the board may provide by rule. Subject to requirements or limitations established by applicable federal authorities or federal law, rule, or policy, hours qualifying for experience in a bordering state will be considered qualifying hours for experience in this state

without requiring a waiver or authorization from the board in accordance with rules and standards adopted by the board~~, as long as a majority of qualifying hours are completed in this state~~. Qualifying hours completed in a bordering state shall be under the direct supervision of a certified real estate appraiser with active certification in that bordering state. The board shall prescribe a required minimum number of tested hours of education relating to the provisions of this chapter, the uniform appraisal standards, and other rules issued in accordance with this chapter.

Sec. 37. Section 543D.13, Code 2024, is amended to read as follows:

543D.13 Principal place of business.

1. Each certified real estate appraiser shall advise the board of the address of the appraiser's principal place of business ~~and all other addresses at which the appraiser is currently engaged in the business of preparing real estate appraisal reports~~.

2. When a certified real estate appraiser changes the appraiser's principal place of business, the appraiser shall immediately ~~give written notification of the~~ submit an application for a change ~~to the board and apply for an amended certificate~~ of address through the board's electronic system.

3. Each certified real estate appraiser shall notify the board of the appraiser's current residence address. Residence addresses on file with the board are exempt from disclosure as public records unless the residence address is the address of the appraiser's principal place of business.

Sec. 38. Section 543D.14, Code 2024, is amended to read as follows:

543D.14 Certificate.

A certificate issued under this chapter shall bear the ~~signature or facsimile signature~~ name of the member or names of the members of the board as designated by the board and a certificate number assigned by the board.

Sec. 39. Section 543D.16, subsections 2 and 3, Code 2024, are amended to read as follows:

2. The basic continuing education requirement for renewal of certification shall be the completion, before June 30 of the year in which the appraiser's certificate expires, of the number of hours of instruction required by the appraiser qualifications board of the appraisal foundation in courses or seminars which have received the preapproval of the board.

3. The provisions of section 272C.2, subsection 4, shall only apply to a certified real estate appraiser or an associate real estate appraiser to the extent consistent with the policies adopted by the ~~appraisal~~ appraiser qualifications board of the appraisal foundation.

Sec. 40. Section 543D.20, subsection 1, paragraph c, Code 2024, is amended to read as follows:

c. The person is solely providing administrative services, such as taking photographs, preparing charts, or typing reports, and is not providing real estate appraisal assistance in developing the analysis, valuation, opinions, or conclusions associated with the appraisal assignment. Such a person shall only enter a dwelling if supervised by the appraiser.

Sec. 41. Section 543D.20, subsection 2, Code 2024, is amended to read as follows:

2. The board shall establish by rule the terms and conditions of the registration of associate real estate appraisers, including the educational and other prerequisites to registration, the fees for registration and the renewal of registration, and the continuing education requirements for renewal of registration. The board shall consider and may incorporate any guidelines recommended by the ~~appraisal~~ appraiser qualifications board of the appraisal foundation relating to associate real estate appraisers.

Sec. 42. Section 543D.22, subsection 1, paragraph a, Code 2024, is amended to read as follows:

a. Subject to paragraphs "*b*" and "*c*", the board may require

a national criminal history check through the federal bureau of investigation for applicants for certification or registration, or for persons certified or registered under this chapter, if needed for credibility, to comply with federal law or regulation, or the policies of the ~~appraisal qualification~~ appraiser qualifications board of the appraisal foundation. The board may alternatively require a national criminal history check through the nationwide mortgage licensing system and registry, as defined in section 535D.3, when conducting background investigations under this section, if authorized by applicable federal law or regulation.

