

of the Code shall not be expended for any of the purposes specified in paragraphs a through e of this subsection.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Manly Signal, a newspaper published in Manly, Iowa, and in the Dallas County News, a newspaper published in Adel, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, House File 2329 was published in the Manly Signal, Manly, Iowa on May 4, 1978, and in the Dallas County News, Adel, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1024

ADMINISTRATIVE RULES AND CODE OF IOWA

S. F. 244

AN ACT relating to procedures for approving and publishing administrative rules and the Code of Iowa.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section two point forty-two (2.42), subsection eleven (11), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-eight (38), section two (2), is amended to read as follows:

11. To ~~consult-with~~ appoint the Code editor, establish the salaries of the persons employed in that office and establish policies with regard to the printing and publishing of the Iowa administrative code and bulletin, the Code of Iowa and session laws, including but not limited to: The style and format to be used in publishing such documents, the frequency of publications, the contents of such publications, the numbering system to be used in the Code and session laws, the preparation of editorial comments or notations, the correction of errors, the type of print to be used, the number of volumes to be published, recommended revisions of the Code and session laws, the letting of contracts for the publication of the Code and session laws, and any other matters deemed necessary to the publication

of a uniform and understandable Code of laws.

Sec. 2. Chapter seven (7), Code 1977, is amended by adding the following new section:

NEW SECTION. OFFICE OF ADMINISTRATIVE RULES COORDINATOR.

The governor shall establish the office of the administrative rules coordinator, and appoint its staff, which shall be a part of the governor's office. The administrative rules coordinator shall receive all notices and rules promulgated pursuant to chapter seventeen A (17A) of the Code and provide the governor with an opportunity to review and object to any rule as provided in chapter seventeen A (17A) of the Code. The administrative rules coordinator in consultation with the Code editor shall prescribe a uniform style and form by which an agency shall prepare and file a rule pursuant to chapter seventeen A (17A) of the Code which shall correlate each rule to a uniform numbering system devised by the administrative rules coordinator. The administrative rules coordinator shall review all submitted rules for style and form and may return or revise a rule which is not in proper style and form.

Sec. 3. Section fourteen point one (14.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

14.1 CODE EDITOR. The legislative council shall appoint a Code editor who shall serve at the pleasure of the legislative council.

Sec. 4. Section fourteen point six (14.6), Code 1977, is amended by striking subsections five (5) and six (6) and inserting in lieu thereof the following:

5. Notify the administrative rules coordinator that a rule is not in proper style or form.

Sec. 5. Section fourteen point ten (14.10), subsection two (2), Code 1977, is amended to read as follows:

2. The Acts of each general assembly shall ~~as-nearly as-possible~~ be arranged in the ~~same-consecutive~~ order in ~~which-the-same-or-similar-subject-matters-are-arranged-in-the-Code~~ determined by the Code editor and approved by the legislative council.

Sec. 6. Section fourteen point twelve (14.12), subsections one (1), two (2), and nine (9), Code 1977, are amended to read as follows:

1. The printing of the text shall be in a manner specified by the Code editor ~~in-consultation-with~~ and approved by the legislative council.

2. The Code shall be numbered in a manner specified by the Code editor ~~in-consultation-with~~ and approved by the legislative council.

9. The Code shall be printed upon a good quality of paper in a manner specified by the Code editor ~~in-consultation-with the-legislative-council~~ according to the recommendations prepared by the superintendent of printing and approved by the legislative council.

Sec. 7. Section fourteen point thirteen (14.13), unnumbered paragraph one (1), and subsection one (1), Code 1977, is amended to read as follows:

The Code editor in preparing the copy for an edition of the Code and the Iowa ~~departmental-rules~~ administrative code and bulletin shall have power to:

1. Correct ~~therein~~ all misspelled words in the original enrollments and filed rules.

Sec. 8. Section fourteen point fifteen (14.15), Code 1977, is amended to read as follows:

14.15 FUTURE CODES. A new Code or its supplements ~~thereto~~ shall be issued as soon as possible after the final adjournment of the second regular session of the general assembly. Supplements to the Code may be issued after the first regular session or a special session of the general assembly in such manner as shall be determined by the Code editor ~~in consultation-with~~ and approved by the legislative council. The Code editor shall, immediately after the issuance of a new Code, prepare copy for the ensuing Code or its supplement ~~thereto~~, and at all times keep the same revised to date in the files of his or her office. The superintendent of printing board shall cause such Code or its supplement ~~thereto~~ to be printed in the manner specified by the Code editor ~~in consultation-with~~ and approved by the legislative council and the proofreading on such Code shall be solely under the direction and control of the Code editor.

Sec. 9. Section fourteen point sixteen (14.16), Code 1977, is amended to read as follows:

14.16 PREPARATION. All new editions of the Code or its supplements ~~thereto~~ shall be so prepared and printed that each section of the general statute law shall appear in ~~said~~ the new edition in its new or ~~finally-revised-and~~ amended form. All sections of law of a general nature enacted after the last preceding Code or supplement shall be inserted in each new edition in such logical order as the editor of the

Code may determine subject to the approval of the legislative council in consultation with the legislative service bureau.

All new editions of the Code or its supplements thereto may be printed in one or more volumes as shall be determined by the ~~majority-of-a-committee-consisting-of-the-Code-editor,~~ ~~the-chief-justice-of-the-supreme-court-and-the-superintendent~~ ~~of-printing~~ legislative council.

Sec. 10. Section fourteen point twenty (14.20), Code 1977, is amended to read as follows:

14.20 OFFICIAL STATUTES. The Code, supplements to the Code and session laws published under authority of the state shall constitute the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules thereof.

Sec. 11. Section fourteen point twenty-one (14.21), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The ~~printing-division~~ Code editor in consultation with the superintendent of printing may cause to be printed from time to time, in the form of leaflets, folders, or pamphlets and in such numbers as the ~~division~~ Code editor deems reasonable, parts of the Code for the use of public officers. Such orders shall be limited to actual needs as shown by experience or other competent proof, and the printing shall, ~~as-far-as-practicable,~~ be done ~~from-the-plates-or-slugs-from~~ ~~which-the-Code-has-been-printed~~ in an economical manner approved by the legislative council.

Sec. 12. Section seventeen A point four (17A.4), subsection one (1), paragraph a, Code 1977, is amended to read as follows:

a. Give notice of its intended action by submitting ~~two~~ three copies of the notice to the administrative rules coordinator who shall forward two copies to the Code editor ~~to-be-published~~ for publication in the "Iowa Administrative Code Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

Sec. 13. Section seventeen A point four (17A.4), subsection two (2), Code 1977, is amended to read as follows:

2. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable ~~if the rule which is so adopted provides by its own terms that it shall be effective for only one hundred eighty specified days. -- If an agency for good cause finds that notice and public participation would be unnecessary, subsection 1 shall be inapplicable.~~ The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons therefor, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. If the administrative rules review committee by a two-thirds vote, the governor or the attorney general files with the Code editor an objection to the adoption of any rule pursuant to this subsection, that rule shall cease to be effective one hundred eighty days after the date the objection was filed. A copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

Sec. 14. Section seventeen A point four (17A.4), subsection four (4), paragraph a, Code 1977, is amended to read as follows:

a. If the administrative rules review committee created by section 17A.8, the governor or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee, governor or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee, governor or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee, governor or the attorney

general shall also file a certified copy of such an objection in the office of the secretary-of-state Code editor within the above time limits and a notice to the effect that an objection has been filed shall be published in the next supplement-to issue of the "Iowa-Administrative-Code" Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

Sec. 15. Section seventeen A point four (17A.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The governor may rescind an adopted rule by executive order within thirty-five days of the publication of the rule. The governor shall provide a copy of the executive order to the Code editor who shall include it in the next publication of the Iowa administrative bulletin.

Sec. 16. Section seventeen A point five (17A.5), subsection one (1), Code 1977, is amended to read as follows:

1. Each agency shall file in the office of the secretary of-state administrative rules coordinator three certified copies of each rule adopted by it. Two copies of each rule shall be forwarded to the Code editor by the administrative rules coordinator. The secretary-of-state administrative rules coordinator shall keep a permanent register of the rules open to public inspection.

Sec. 17. Section seventeen A point five (17A.5), subsection two (2), paragraph b, Code 1977, is amended to read as follows:

b. Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon filing with the secretary-of-state administrative rules coordinator, or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing and publication, if the agency finds:

Sec. 18. Section seventeen A point six (17A.6), subsection one (1), Code 1977, as amended by House File two thousand ninety-nine (2099), section four (4), as enacted by the Sixty-seventh General Assembly, 1978 Session, is amended to read as follows:

1. The Subject to the direction of the administrative rules coordinator, the Code editor shall cause the "Iowa Administrative Code" to be compiled, indexed and published in loose-leaf form containing all rules adopted and filed by each agency. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published at least every other week, in such a form that they may be filed in the appropriate places in the compilation, containing all rules filed for publication in the prior two weeks. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. ~~The Code editor~~ administrative rules coordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

Sec. 19. Section seventeen A point eight (17A.8), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule until the expiration of forty-five calendar days, excluding legal holidays, during which the general assembly is in regular session. If a rule is delayed during the last twenty-one calendar days preceding the adoption of a resolution for sine die adjournment of a regular session, the forty-five day period shall begin to run upon the convening of the next regular session of the general assembly. The committee shall refer a rule whose effective date has been delayed to the speaker of the house of representatives and the president of the senate who shall refer the rule to the appropriate standing committees of the general assembly. If at the expiration of that period the general assembly has not disapproved of the rule by a joint resolution approved by the governor, the rule shall become effective. If a rule is disapproved, it shall not become effective and the agency shall withdraw the rule. This section shall not apply to rules made effective under section seventeen A point five (17A.5), subsection two (2), paragraph b of the Code.

Sec. 20. Section seventeen A point thirteen (17A.13), subsection one (1), Code 1977, is amended to read as follows:

1. Agencies shall have all subpoena powers conferred upon them by their enabling acts or other statutes. In addition, prior to the commencement of a contested case by the notice referred to in section 17A.12, subsection 1, an agency having power to decide such cases shall have authority to subpoena books, papers, records and any other real evidence necessary

for the agency to determine whether it should institute such a contested case proceeding. After the commencement of a contested case, each agency having power to decide contested cases shall have authority to administer oaths and to issue subpoenas in such cases. Discovery procedures applicable to civil actions shall be available to all parties in contested cases before an agency. Evidence obtained in such discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. Agency subpoenas shall be issued to a party on request and shall not be subject to the distance limitation of section six hundred twenty-two point sixty-six (622.66) of the Code.

On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

Sec. 21. Section eighteen point ninety-seven (18.97), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The superintendent of printing shall make free distribution of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, and the Iowa administrative bulletin as follows:

Approved June 27, 1978

CHAPTER 1025

ADMINISTRATIVE RULES

H. F. 2099

AN ACT relating to the publication of administrative rules.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section seventeen A point four (17A.4), subsections one (1), four (4), and five (5), Code 1977, are amended to read as follows:

1. Prior to the adoption, amendment, or repeal of any rule an agency shall: