

CHAPTER 114

STATE ADMINISTRATIVE PROCEDURE

H.F. 586

AN ACT relating to the rulemaking process and state agency decision making.

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

Section 1. Section 17A.4, subsection 3, Code 2013, is amended to read as follows:

3. a. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest 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. The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons for the finding, 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.

b. (1) If the administrative rules review committee by a two-thirds vote, the governor, or the attorney general files with the administrative code editor an objection to the adoption of any a rule or portion of a rule pursuant to this subsection, that the rule or portion of the rule shall cease to be effective one hundred eighty days after the date the objection was filed. A

(2) If the administrative rules review committee files with the administrative code editor an objection to the adoption of a rule or portion of a rule pursuant to this subsection, the administrative rules review committee, by a separate two-thirds vote, may suspend the applicability of the rule or portion of the rule until the rule ceases to be effective under this paragraph "b". The determination to suspend the applicability of the rule or portion of the rule shall be included in the copy of the objection to be forwarded to the agency.

c. If an objection to a rule is filed under this subsection, 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 or portion of 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. 2. Section 17A.4, subsection 7, Code 2013, is amended to read as follows:

7. a. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule or portion of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. If the rule was promulgated under section 17A.5, subsection 2, paragraph "b", the administrative rules review committee, within thirty-five days of the effective date of the rule and upon the vote of two-thirds of its members, may suspend the applicability of the rule or portion of the rule for seventy days.

b. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

Sec. 3. Section 17A.4, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Upon the vote of two-thirds of its members, the administrative rules review committee, following notice of intended action as provided in subsection 1 and prior to adoption of a rule pursuant to that notice, may suspend further action relating to that notice for seventy days. Notice of a notice of intended action that was suspended under this provision shall be published in the Iowa administrative code and bulletin.

Sec. 4. Section 17A.8, subsection 9, Code 2013, is amended to read as follows:

9. a. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule or portion of a rule until the adjournment of the next regular session of the general assembly, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". If the rule was promulgated under section 17A.5, subsection 2, paragraph "b", the administrative rules review committee, within thirty-five days of the effective date of the rule and upon the vote of two-thirds of its members, may suspend the applicability of the rule or portion of the rule until the adjournment of the next regular session of the general assembly.

b. The committee shall refer a rule or portion of a rule whose effective date has been delayed or applicability has been suspended to the speaker of the house of representatives and the president of the senate who shall refer the delayed or suspended rule or portion of the rule to the appropriate standing committees of the general assembly. A standing committee shall review a the rule within twenty-one days after the rule is referred to the committee by the speaker of the house of representatives or the president of the senate and shall take formal committee action by sponsoring a joint resolution to disapprove the rule, by proposing legislation relating to the rule, or by refusing to propose a joint resolution or legislation concerning the rule. The standing committee shall inform the administrative rules review committee of the committee action taken concerning the rule. If the general assembly has not disapproved of the rule by a joint resolution, the rule shall become effective. The speaker of the house of representatives and the president of the senate shall notify the administrative code editor of the final disposition of each rule or portion of a rule whose effective date has been delayed or whose applicability has been suspended pursuant to this subsection. If a the rule is disapproved, it the rule shall not become be effective and the agency shall rescind the rule. This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".

Sec. 5. Section 17A.23, Code 2013, is amended to read as follows:

17A.23 Construction — delegation of authority.

1. Except as expressly provided otherwise by this chapter or by another statute referring to this chapter by name, the rights created and the requirements imposed by this chapter shall be in addition to those created or imposed by every other statute in existence on July 1, 1975, or enacted after that date. If any other statute in existence on July 1, 1975, or enacted after that date diminishes a right conferred upon a person by this chapter or diminishes a requirement imposed upon an agency by this chapter, this chapter shall take precedence unless the other statute expressly provides that it shall take precedence over all or some specified portion of this ~~named~~ cited chapter.

2. This chapter shall be construed broadly to effectuate its purposes. This chapter shall also be construed to apply to all agencies not expressly exempted by this chapter or by another statute specifically referring to this chapter by ~~name~~ citation; and except as to proceedings in process on July 1, 1975, this chapter shall be construed to apply to all covered agency proceedings and all agency action not expressly exempted by this chapter or by another statute specifically referring to this chapter by ~~name~~ citation.

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

Approved May 24, 2013