

FILED FEB 15 2006

STATE GOVERNMENT

SENATE FILE 2230
BY ADMINISTRATIVE RULES
REVIEW COMMITTEE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the approval of emergency rulemaking by the
2 governor.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

STATE GOVERNMENT

SF 2230

1 Section 1. Section 17A.4, subsection 2, Code 2005, is
2 amended to read as follows:

3 2. When an agency for good cause finds that notice and
4 public participation would be unnecessary, impracticable, or
5 contrary to the public interest, the provisions of subsection
6 1 shall be inapplicable if the governor or the governor's
7 designee, who is not a member of the agency, has approved the
8 adoption of the rule without notice and public participation.
9 Such approval is not required if a statute specifically
10 authorizes adoption under this subsection. The agency shall
11 incorporate in each rule ~~issued~~ adopted in reliance upon this
12 provision either the finding and a brief statement of the
13 reasons for the finding, or a statement that the rule is
14 within a very narrowly tailored category of rules whose
15 issuance has previously been exempted from subsection 1 by a
16 special rule relying on this provision and including such a
17 finding and statement of reasons for the entire category, and
18 reciting the approval of the governor or the governor's
19 designee or citing to the statute authorizing the adoption
20 under this subsection. If the administrative rules review
21 committee by a two-thirds vote, ~~the governor,~~ or the attorney
22 general files with the administrative code editor an objection
23 to the adoption of any rule pursuant to this subsection, that
24 rule shall cease to be effective one hundred eighty days after
25 the date the objection was filed. A copy of the objection,
26 properly dated, shall be forwarded to the agency at the time
27 of filing the objection. In any action contesting a rule
28 adopted pursuant to this subsection, the burden of proof shall
29 be on the agency to show that the procedures of subsection 1
30 were impracticable, unnecessary, or contrary to the public
31 interest and that, if a category of rules was involved, the
32 category was very narrowly tailored.

33

EXPLANATION

34 This bill provides that the adoption of a rule without
35 notice or an opportunity for public participation must be

1 approved by the governor or the governor's designee unless a
2 statute specifically authorizes adoption of the rule on an
3 emergency basis. That designee cannot be a member of the
4 agency adopting the rule.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35