



Administrative Rules Review Committee

# THE RULES DIGEST

May 2012

**Scheduled for Committee review**  
**Tuesday May 8th, 2012**  
**Room #116**

Reference  
XXXIV IAB No. 20(04/04/12)  
XXXIV IAB No. 21(04/18/12)  
XXXIV IAB No. 22(05/02/12)

## **HIGHLIGHTS IN THIS ISSUE:**

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## **CAPITAL INVESTMENT BOARD**

9:05

*Verification of tax credits for investment in fund of funds, 04/04/12 IAB, ARC 0077C, NOTICE.*

These new rules were initially reviewed by the committee in March; at that time it was reported to the committee that several out-of-state financial institutions had commenced litigation in Polk County District court to overturn these proposals, which are intended to clarify the documentation required to claim a state tax credit that has never been claimed before. The district court judge ruled against the banks on all points relating for a request for a temporary injunction; however, at least two actions are still before the district court.

## **HISTORICAL DIVISION**

9:45

*Historic preservation, 04/18/12 IAB, ARC 0103, 0104C, NOTICE.*

The State Historic Preservation Office receives an annual federal grant which requires compliance with the federal Historic Preservation Fund Grants Manual. The rules provide a definition for “*historic property*” which includes both the property and artifacts, records, and remains that are related and located within such properties. The term also includes includes properties of traditional religions and cultural importance to an Indian tribe and that meet the National Register criteria.

The rules add detail to the role of the state historic preservation office (SHPO). This state official will review all federal projects; the recommendations and decisions of the SHPO are subject to the review and approval of the director. This review may be initiated by the director for any reason, or on request by an affected person.

A new rule defines the level of effort required to identify historic properties. The division or any entity receiving federal funds must make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Code §303.18, newly enacted in 2011 modifies this requirement for rural electric cooperatives and municipalities. That section states:

1. The state historic preservation officer shall only recommend that a rural electric cooperative or a municipal utility constructing electric distribution and transmission facilities for which it is receiving federal funding conduct an archeological site survey of its proposed route when, based upon a review of existing information on historic properties within the area of potential effects of the construction, the state historic preservation officer has determined that a historic property, as defined by the federal National Historic Preservation Act of 1966, as amended, is likely to exist within the proposed route.
2. The state historic preservation officer shall not require a level of archeological identification effort which is greater than the reasonable and good faith effort required by the federal agency. Such effort shall reflect the public interest and shall take into account the likelihood and magnitude of potential impacts to historic properties and project costs.

## **INSURANCE DIVISION**

10:10

*Certificates of insurance for commercial lending transactions, 04/04/12 IAB, ARC 0070C, NOTICE.*

These proposed rules were informally reviewed by the Committee in April because they will be implemented on an “emergency” basis by the May meeting. The rules clarify what information a regulated insurance company may provide its customer in connection with a commercial real estate transaction between the customer and a lender. They relate to the situation where a lender requires a certificate of insurance on commercial real estate, and what can properly be placed in that certificate. The issues remain unresolved and will be further reviewed at the committees May meeting.

## **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT**

no rep

*Rating for ethanol blended gasoline, 04/04/12 IAB, ARC 0079C, FILED EMERGENCY AFTER NOTICE.*

This rulemaking allows gasoline which contains greater than 10 percent ethanol by volume and up to 15 percent ethanol by volume (E-15) to be sold from the same hose as other registered gasoline products. The “for flex fuel only” sticker is no longer required on pumps using this fuel. Pumps with ethanol classified as higher than E-10 are required to have the federal sticker identifying the fuel as up to 15 percent ethanol for use only in flex-fuel vehicles and model year 2001 and newer passenger vehicles. The octane rating shall be posted for regular fuels. The Department waited to finalize action on the amendments until gasoline that contains greater than 10 percent ethanol by volume and up to 15 percent ethanol by volume (E-15) became a registered fuel with the EPA.

## **EDUCATION DEPARTMENT**

no rep

*Pathways for academic career and employment (PACE) program/ the GAP program, 04/18/12 IAB, ARC 0020C, ADOPTED.*

This new training and jobs program was initially reviewed by the committee in March; it implements the PACE program under 2011 Iowa Code Supplement chapter 260H and the gap tuition assistance program under 2011 Iowa Code Supplement chapter 260I. The PACE program provides funding to community colleges for projects to implement a simplified, streamlined, and comprehensive process, along with customized support services, to enable eligible participants to acquire effective academic and employment training to secure gainful, quality, in-state employment. These projects are to be developed in coordination with the economic development authority, the department of education, Iowa workforce development, regional advisory boards, and community partners. The program is intended to match underemployed and unemployed workers with in-demand occupations in Iowa. Eligible persons include:

- Persons deemed low skilled for the purposes of attaining gainful, quality, in-state employment.
- Persons earning incomes at or below two hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.
- Unemployed persons.
- Underemployed persons.
- Dislocated workers

This filing also contains rules for the GAP program, created in 2011 Iowa Code Supplement §260I.11. The program provides funding to community colleges for need-based tuition

assistance to applicants to enable completion of “certificate training” programs for in-demand occupations. A certificate training program prepares a participant for an in-demand occupation, including information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in-demand by a regional advisory board.

## **EDUCATION DEPARTMENT**

no rep

*School business official knowledge and skills standards and criteria, 05/02/12 IAB, ARC 0112C, NOTICE.*

This proposal revises existing rules which establish criteria for school business officials. These officials are responsible for the financial operation of a school district. The rules set out nine generalized standards, each of which is supplemented with detailed, specific examples or the required skill. The nine standards provide:

*Standard 1.* Each school business official shall demonstrate an understanding of Uniform Financial Accounting, governmental GAAP accounting, and statutory concepts.

*Standard 2.* Each school business official shall demonstrate the ability to implement effective internal controls and accounting processes.

*Standard 3.* Each school business official shall demonstrate an understanding of and compliance with federal, state, and local reporting requirements.

*Standard 4.* Each school business official shall demonstrate compliance with applicable federal, state, and local laws.

*Standard 5.* Each school business official shall demonstrate competence in technology appropriate to the school business official position.

*Standard 6.* Each school business official shall demonstrate appropriate personal skills.

*Standard 7.* Each school business official shall engage in professional growth.

*Standard 8.* Each school business official shall fulfill professional responsibilities established by the school district.

*Standard 9.* If a school business official is also employed as the secretary or treasurer of the school board, the school business official shall:

- a.* Take the oath of office within ten days following appointment.
- b.* File a bond and ensure the level of coverage is adequate.
- c.* Hold office until a successor has been appointed and qualified.
- d.* Publish minutes, bills, and salaries on a timely basis.
- e.* Ensure that the department, the county auditor, and the treasurer are informed timely of the names and addresses for board officers as well as any changes therein.
- f.* File and preserve copies of all required reports and all papers transmitted pertaining to the

business of the school corporation, including all certificates, reports, and proofs related to compulsory education.

*g.* Maintain separate books for minutes and elections and ensure that the records are complete.

*h.* Deliver all claims to the board for audit and allowance.

## **HUMAN SERVICES DEPARTMENT**

no rep

*State supplementary assistance program—annual adjustments to eligibility and payment levels, 05/02/12 IAB, ARC 0117C, NOTICE.*

This rulemaking implements legislation allowing the Department to submit an amendment to the State Medicaid Plan to take advantage of an option given to states in the federal Patient Protection and Affordable Care Act. That provision allows states to provide to members who have designated chronic medical conditions additional services that are not normally funded by Medicaid. Implementation is subject to federal approval of the state plan amendment. States are allowed to claim 90 percent federal match for the first two years of operation.

Additional services to be provided are health home services including comprehensive care management; care coordination and health promotion; comprehensive transitional care from inpatient to other settings; referral to relevant community and social support services; and the use of health information technology to link services. Providers of health home services are anticipated to be primary care practices, such as community mental health centers, federally qualified health centers, and rural health clinics, although any Medicaid-enrolled entity that meets program and personnel requirements may qualify as a health home provider. Federal law requires that hospitals in a state that offers health home services must agree to refer eligible members to a designated health home provider.

Provision of health home services to eligible Medicaid members will support the plan for implementing a statewide medical home system developed by the Medical Home System Advisory Council pursuant to Iowa Code section 135.159. The expectation is that the provision of more intensive services to people with chronic health conditions will lower the overall cost of care by reducing emergency room visits and hospital stays, among other benefits.

The amount of the monthly payment for an eligible member will be determined according to a fee schedule based on the number of specified chronic health conditions the member has.

## **PHARMACY BOARD**

no rep

*Outpatient medication orders—schedule II controlled substance*, 04/04/12 IAB, ARC 0075C, NOTICE.

Current rules provide that a medication order for administration of a Schedule II controlled substance in a hospital outpatient setting shall authorize a single administration of the prescribed substance. This rulemaking changes that requirement so that such an order may authorize the administration of an appropriate amount of the prescribed substance for a period not to exceed 90 days from the date the medication administration order is initially authorized by the prescriber.

## **PUBLIC HEALTH DEPARTMENT**

no rep

*Iowa Care for Yourself (IA CFY) Program*, 04/04/12 IAB, ARC 0059C, ADOPTED.

This new program replaces an existing program relating to the detection of breast and cervical cancer. The purposes of the IA CFY Program are to provide breast and cervical cancer screening and diagnostic services and cardiovascular screening and intervention services to underserved women, to provide public and professional development, and to support community partnerships enhancing statewide breast and cervical cancer and cardiovascular disease control activities. Services are available depending on the age of the woman:

- Women 50 through 64 years of age are the program's priority population, shall receive annual breast and cervical cancer screening.
- Women 40 through 64 years of age shall also receive cardiovascular risk factor screening.
- Women 40 through 49 years of age shall receive annual breast and cervical cancer screening.
- Women under 40 years of age, if symptomatic for breast cancer, shall receive breast and cervical cancer screening services based upon funding availability.
- Women 65 years of age and older shall be eligible to receive annual breast and cervical cancer screening if they do not have Medicare Part B coverage.

The rules actually combine two programs, funded through the Center for Disease Control. Services are provided by community based agencies funded through the Department. Services are available to women earning up to 250% of the poverty guideline.

## **PUBLIC HEALTH DEPARTMENT**

no rep

*Colorectal screening program, 04/04/12 IAB, ARC 0060C, ADOPTED.*

This new program is funded by the federal Department of Health and Human Services and Center for Disease Control; it provides screening for colorectal cancer. The intent of the program is to reduce the incidence, mortality and prevalence of colorectal cancer in Iowa by increasing the number of men and women who receive fecal immunochemical tests (FITs) and colonoscopies. Participants must be 50 to 64 years of age, be underinsured or uninsured, have incomes of up to 250 percent of the federal poverty level, and have an average or increased risk for developing colorectal cancer.

## **TRANSPORTATION DEPARTMENT**

no rep

*Rest Area Sponsorship Program, Highway Helper Sponsorship Program, 05/02/12 IAB, ARC 0113C, NOTICE.*

The Department proposes two new clean-up programs for rest stops and highways. The rest area sponsorship program allows a person, a firm, or an entity to sponsor a rest area by providing a monetary contribution, in exchange for an acknowledgment sign on the main-traveled way of an interstate highway and an interior sign within the primary rest area building. The sponsors will provide the sign, which must measure 24 inches high and 48 inches wide. The department shall review the acknowledgment sign proposed by the sponsor; the acknowledgment will not contain an advertisement or a partisan endorsement.

The highway helper sponsorship program allows a person, a firm, or an entity to provide a monetary contribution to assisting in the funding of that service, in exchange for an acknowledgment sign on the main-traveled way of an interstate highway patrolled by the highway helper vehicles.