



Administrative Rules Review Committee

THE RULES DIGEST

October 2012

Scheduled for Committee review
Tuesday October 9th, 2012
Room #116

Reference
XXXV IAB No. 05(09/05/12)
XXXV IAB No. 06(09/19/12)

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SECRETARY OF STATE

9:05

Mechanics liens, 09/19/12 IAB, ARC 0339C, NOTICE.

This 2012 Iowa Acts, House File 675, as amended by 2012 Iowa Acts, House File 2465 create a central state registry for mechanics liens. The mechanics’ notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. A general contractor for residential construction who fails to post a notice of commencement of work on the registry within ten days following commencement of work is not entitled to a lien or other remedies. Six ICN hearings are scheduled around the state.

A general contractor or owner-builder who contracts with a subcontractor for labor or materials for residential construction must post a notice on the registry. The program administrator must the mail a written owner notice to the owner’s address, informing the owner that contractors furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner.

ATTORNEY GENERAL

9:20

Donations made by student loan lenders to educational institutions, 09/05/12 IAB, ARC 0328C, ADOPTED.

In 2011 Many colleges and universities maintain preferred lenders lists. Usually there are several lists, with each list focusing on a different category of loans. The preferred lender lists can include lists for undergraduate Stafford loans, parent PLUS loans, graduate Stafford loans, graduate PLUS loans, consolidation loans, and private student loans.

This program requires that schools with a preferred lender list that has received a philanthropic contribution from a preferred lender during the current calendar year or either of the two prior calendar years shall include a clear and conspicuous statement or a hyperlink to a web site detailing all of the philanthropic contributions received from preferred lenders during the current calendar year and the two prior calendar years, including the monetary value and nature of each contribution. This same disclosure must be placed on the school website.

Iowa Code §261F.4(6) requires the Attorney General to adopt rules providing for disclosures relating to philanthropic contributions by these preferred lenders.

EDUCATION DEPARTMENT

9:40

Project lead the way program, 09/05/12 IAB, ARC 0386C, NOTICE.

A project lead the way program (PLTW) is administered by the Department to promote rigorous science, technology, engineering, and mathematics pursuits. The program that integrates science, technology, engineering and math (STEM) in a problem-based learning environment. According to the PLTW promotional material:

PLTW's programs emphasize critical thinking, creativity, innovation and real-world problem solving. The hands-on learning engages students on multiple levels, exposes them to areas of study that they may not otherwise pursue, and provides them with a foundation and proven path to post-secondary training and career success in STEM-related fields.

For high schools that wish to provide a PLTW program, they must offer at least three courses within a period of three academic years from the date that it commences the curricular program.

As provided in 2012 Iowa Acts, Senate File 2284, courses offered by a school district through collaboration with a community college in partnership with a nationally recognized, not-for-profit provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are courses eligible for supplementary weighting.

A school district offering a project lead the way program must offer the curriculum developed by the national organization that administers the program, and employ teachers trained in the program requirements .

PAROLE BOARD

10:00

Parole and work release decisions, 09/05/12 IAB, ARC 0320C, NOTICE.

This rulemaking revises the Board's risk assessment tool used for making releasing decisions for paroles and work releases. Currently, a risk assessment score of one through six requires three affirmative votes for a release, a score of seven or eight requires four affirmative votes, and a score of nine requires all five members to cast an affirmative vote to grant a release. The proposed amendments rescind the language tying a specific risk assessment score to the number of affirmative votes needed for a parole or work release. The amendments also change the requirement that four or five affirmative votes are needed to release certain high-risk inmates. With these changes, three affirmative votes are the most required for release of any single inmate.

PUBLIC HEALTH DEPARTMENT

10:50

*Plumbing and mechanical systems board--licensure fees, 10/03/12 IAB, ARC 0341C, ADOPTED.
Plumbing and mechanical systems board--renewal of lapsed license, 10/03/12 IAB, ARC 0340C, ADOPTED.*

These amendments are intended to relieve the burden of sitting for examination from a licensee who has allowed a license to lapse for more than 60 days but not more than 365 days. These amendment set forth the late fee and renewal fee that will be due when a licensee renews a license. These amendments stipulate that a licensee who has allowed a license to lapse for more than 60 days cannot continue to work in the discipline until the license is renewed and that a licensee who does continue to work with a lapsed license may be subject to disciplinary action. The amendments also identify two options for license renewal for a licensee who has allowed a license to lapse for more than one

year: (1) sitting for the appropriate examination and paying the renewal fee, or (2) retaking all continuing education courses and paying the renewal fee.

HUMAN SERVICES DEPARTMENT

12:40

Mental health and disability services redesign transition fund, 10/03/12 IAB, ARC 0346C, EMERGENCY.

This rulemaking pursuant to 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66, is intended to provide for the gathering of information and to guide the development of recommendations to the Governor and Legislature regarding appropriations for transition funds to continue non-Medicaid-funded current core county mental health and disability services. The rules represent what the Mental Health and Disability Services (MHDS) Commission believes will demonstrate the county's need for financial assistance to enable the county to continue current core county mental health and disability services in state fiscal year 2013 and sustain such services in future state fiscal years. This rulemaking has also been published as a notice of intended action. The rules are divided into the following sections:

1. Definitions.
2. Eligibility requirements.
3. Establishment of application guidelines related to financial need, financial data, and sustainability plans.
4. Establishment of guidelines for the Department of Human Services for receiving, analyzing, and reporting of transition applications as relating to the transition funds.
5. Establishment of guidelines related to the allocation of transition funds.

A county is eligible for one-time transition funds in state fiscal year 2013, if funds are appropriated, if the county meets the following eligibility requirements. Each county shall:

1. Demonstrate that the county levy certified for its services fund is the maximum amount authorized by law.
2. Demonstrate that the county's projected expenditures for state fiscal year 2013, excluding increased costs for county administration and subsidies for county-operated programs, are in excess of the county's projected available funds for state fiscal year 2013.
3. Demonstrate that a reduction in the amount, scope, and duration of current core county mental health and disability services is necessary in the absence of transition funding.
4. Submit an application that meets the application requirements.

If the amount appropriated by the legislature for transition funds is insufficient to provide for the full cost recommended by the department, and the legislation does not state anything to the contrary, the department shall distribute funds based on the following priorities:

1. Individuals in the target population whose income is equal to or less than 150 percent of the federal poverty level.
2. Individuals in the target population whose income is greater than 150 percent.
3. Individuals with a disability other than the target population whose income is equal to or less than 150 percent.
4. Individuals with a disability other than the target population whose income is greater than 150 percent.

ADMINISTRATIVE SERVICES

1:20

Confidential employees-exempt from Merit system, 09/05/12 IAB, ARC 0327C, NOTICE.

In 2011 the Department proposed to revise and expand the definition of the term “confidential employee”. Code §8A.412 provides that a confidential employee is exempt from the merit employment system; it is one of 24 legislatively created exceptions to the application of the merit system.

That exemption made a confidential employee an “at will” employee. That proposal related specifically to public employees who work in personnel offices, and was not adopted.

This proposal is significantly different; it defines a confidential employee as an employee who is in a confidential relationship with a director, chief deputy administrative officer, a division administrator, or a similar position, and is a part of the management or legal team of that top-level administrator. Under this rule a confidential relationship means a relationship in which one person has a duty to the other not to disclose information.

NATURAL RESOURCES DEPARTMENT

2:00

Duck Hunting, 09/05/12 IAB, ARC 0327C, NOTICE.

This rule sets the waterfall and coot season along with all the details. The rule also creates a new zone for duck and goose hunting, the Missouri River zone, which includes all the lands and waters in the state of Iowa west of Interstate 29 and north of State Highway 175. The size of this new zone has been decreased from the initial notice. The May 2 notice included all of Iowa west of Interstate 29. As a result of comment received

during the notice portion of the rulemaking process, the Commission reduced the size of the new zone. The advantage of the new zone is that hunters will have the opportunity to hunt a week later in this zone than in the south zone. The establishment of a third zone also increases flexibility for adjusting duck hunting season dates if duck seasons are shortened to 30 or 45 days.

NATURAL RESOURCE COMMISSION

2:00

Shooting sports program grants, 09/05/12 IAB, ARC 0308C, ADOPTED.

This rulemaking creates two new grants under the DNR's shooting sports program for shooting range development and enhancement around the state. The grants are for: (1) the development of new ranges or the improvement of existing ranges; and (2) the purchase of range equipment. This new chapter implements this program by defining eligibility, application procedures, project selection criteria, the make-up and role of a scoring committee, maximum grant amounts, payment procedures, and record-keeping requirements. The shooting sports program receives federal dollars plus some state Fish and Game Protection Fund dollars to foster shooting sports and hunter safety in the state.