



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

April 2013

Scheduled for Committee review
Friday, April 12th 2013
Room #116

Reference
XXXV IAB No. 18(03/06/13)
XXXV IAB No 19(03/20/13)

HIGHLIGHTS IN THIS ISSUE:

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VALUATION OF AGRICULTURAL LAND, Revenue Department 4

DEPARTMENT ON AGING

8:35

Aging and disability resource center, 03/06/13 IAB, ARC 0624C, ADOPTED.

These rules were initially reviewed by the committee in January, without issue. In 2009 and 2012, the legislature enacted legislation creating aging and disability resource centers. These centers provide coordination services to ensure that elderly Iowans receive necessary care or assistance. The centers also provide counseling services to assist individuals in planning for their future needs.

The centers are supported by "access points" which provide local client service on behalf of the centers.

DEPARTMENT ON AGING

8:35

Reduction of local agencies, 03/06/13 IAB, ARC 0626C, ADOPTED.

These rules were also reviewed by the committee in January. 2012 Iowa Acts, House File 2320 reduces the number of area aging agencies. These rules set out the process for the local agencies to wind up operations and close in an orderly manner.

ATTORNEY GENERAL

8:50

Forfeited property, 03/20/13 IAB, ARC 0646C, NOTICE.

Property forfeited as part of a criminal action may be used by the Attorney General in the enforcement of the criminal law or given to any other law enforcement agency

within the state if, in the opinion of the Attorney General, it will enhance law enforcement.

This notice of intended action decreases the amount of forfeited funds retained by the Attorney General from 20 percent to 10 percent and increases the amount of forfeited funds given to local law enforcement agencies from 80 percent to 90 percent. The notice also decreases from 20 percent to 10 percent the amount of proceeds from the sale of forfeited real estate retained by Attorney General.

EDUCATIONAL EXAMINERS BOARD

9:00

Professional conduct: student abuse, 04/03/13 IAB, ARC 0678C, NOTICE.

Board rules clearly prohibits any sexual relationship or consummating a romantic relationship between a student and an educator. This rule extends the prohibition to include the six month period following graduation, if the educator was personally acquainted with the student, taught the student, or supervised the student in any school activity.

INSPECTIONS AND APPEALS DEPARTMENT

9:15

Tuberculosis screening, 04/03/13 IAB, ARC 0674C, EMERGENCY.

At its January, 2013, meeting the Committee voted to delay the effective date of ARC 0484C for 70 days. This filing relates to Tuberculosis (TB) screening; stakeholders had expressed some concerns over testing requirements for volunteers, contending that the testing requirements were unworkable. Under the rules volunteers are treated as health care workers. Stakeholder feared that a testing requirement would discourage persons from volunteer.

These concerns have now been addressed in an emergency filed rule. Under this revision a volunteer is considered a health care worker only if the volunteer serves in a health care facility “on a consistent and regularly scheduled basis for five or more hours per week.”

IOWA PUBLIC INFORMATION BOARD

9:30

Organization and operation, 03/20/13 IAB, ARC 0631C, NOTICE.

The board was created under 2012 Iowa Acts, Senate File 430, as a body to provide an alternative means to “secure compliance with and enforcement of the requirements of the open meetings law and public records law (Code chapter 21 and 22). This notice of

intended action sets out a complete set of organizational rules which will allow the board to be fully functional at the July 1 implementation date. Most of these rules contain “boilerplate” language, common to most agencies, meeting specific requirements of Code Chapter 17A.

The board is empowered to issue advisory opinions concerning specific issues with the open meetings law and public records law. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9. Such opinions would be binding on all parties to the issue at hand. Advice contained in a board opinion constitutes defense to a subsequent complaint that is based on the same facts and circumstances.

The board’s most significant power is to hear complaints concerning violations of the open meetings law and public records law, seek resolution through informal assistance or through mediation and settlement, investigate complaints, and determine whether there is probable cause to believe a violation has occurred. If probable cause has been found the board may conduct a contested case proceeding. A board member who participates in discussions to attempt to reach an informal resolution shall not participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board. If the board determines that a violation has occurred, the board may:

- Require the respondent to pay damages as provided for in section 21.6 or 22.10.
- Void any action taken in violation of chapter 21 if a court would be authorized to do so.
- Require the respondent to take any remedial action deemed appropriate by the board.

PUBLIC HEALTH DEPARTMENT

10:25

AIDS Drug Assistance Program, 03/20/13 IAB, ARC 0650C, NOTICE.

The *AIDS drug assistance program (ADAP)* is administered by the bureau of disease prevention and immunization HIV, STD, and hepatitis and includes two components, the medication assistance program and the health insurance assistance program. The program provides certain HIV/AIDS medications to eligible low-income individuals diagnosed with HIV or AIDS if adequate funding is available for administration of the

program. If sufficient funds are not available to provide services to the applicant, the department shall place the applicant's name on the ADAP waiting list.

HUMAN SERVICES DEPARTMENT

11:15

Medicaid: dental coverage, 03/06/13 IAB, ARC 0631C, ADOPTED.

The Medicaid program provides dental services to its recipients. Under the dental program certain medical services can be provided; the new rules provide a standard for these services. It requires that the medical services rendered in a dental setting be “for the prevention, diagnosis, and treatment of dental disease or injuries or for oral devices necessary for a medical condition.” The rule goes on to outline dental procedures that qualify for Medicaid payments. The rules add great detail concerning specific dental procedures, including: the placement of crowns, periodic scaling, root canals, denture services and orthodontic procedures. The rules establish prior authorization requirements for tissue grafts, antimicrobial agents, denture replacements, and denture rebase, and also removes prior authorization requirements for periodontal surgical procedures.

REVENUE DEPARTMENT

11:50

Ag. land valuation, 03/20/13 IAB, ARC 0653C, NOTICE.

An important factor in the property tax evaluation of agricultural parcels is the corn suitability rating. The corn suitability rating (CSR) system was developed by Iowa State University; it measures potential soil productivity based on soil profile, slope characteristics and weather conditions. It is an index ranging from 0 to 100 with CSR values of 100 being the most productive.

This amendment requires that the local the assessor adjust non-cropland in distributing agricultural valuation to each parcel. The adjustment is applied to non-cropland with a CSR greater than 50 percent of the average CSR for cropland for the county. It is calculated as the five-year average difference in cash rent between non-irrigated cropland and pastureland.

This rulemaking utilized the negotiated rulemaking proceedings established in Executive Order #80. The Department formed a stakeholder group to review this proposal. The group was made up of impacted stakeholders that included members

from: Iowa Association of Assessors, Iowa Cattlemen's Association, Iowa Corn Growers Association, Farm Bureau, Iowa Natural Heritage Foundation, Iowa Soybean Association, and a farmer representative.

ADMINISTRATIVE SERVICES

12:00

Confidential employees-exempt from Merit system, 11—50.1 IAC, SELECTIVE.

Iowa 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, subject to dismissal for any reason.

In the Fall of 2012 the Department proposed to revise and expand the definition of the term “confidential employee”. That rulemaking was reviewed at the Committee's October and December meetings; 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. The Committee took no action on this rulemaking.

The Department identifies some 13 agencies where all employees, or all professional employees are exempt from the merit system. The Department also provided information indicating that as on March 8th, 2013 some 67 employees would be moved to confidential status.