



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

August, 2005

Scheduled for committee review
Tuesday, August 9th and Wednesday, August 10th 2005
Senate Room #116

Reference
XXVIII IAB No. 01 (07/06/05)
XXVIII IAB No. 02 (07/20/05)
XXVIII IAB No. 03 (08/03/05)

HIGHLIGHTS IN THIS ISSUE:

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ADMINISTRATIVE SERVICES

DEPARTMENT

Tuesday-9:10

Bids: internet website, IAB Vol. XXVIII, No. 01, ARC 4295B, EMERGENCY.

House File 814 amends Iowa Code Chapter 8A to require the posting, by September 1, 2005, of any formal request for bids or proposals on the official state Internet site operated by the Department of Administrative Services. The Act is an attempt to create a single source of information for the myriad of bidding opportunities offered by state government. As an alternative to actually posting the bid itself, agencies may instead post an electronic link to their own website. Although not required by the Act, agencies may also post informal bidding opportunities (generally small purchases) and solicitations for architectural or engineering services.

ADMINISTRATIVE SERVICES

DEPARTMENT

Tuesday-9:10

Disposal of state property, IAB Vol. XXVIII, No. 01, ARC 4289B, ADOPTED.

Iowa Code §8A.324 provides that the director of administrative Services may dispose of personal property by two means: property that is "unfit or unnecessary" may be sold and the proceeds deposited in the general fund. If the property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. Disposal methods include sale, trade-in, or recycling. Property may also be transferred between agencies. The department and its predecessor, the General Services Department, has always had control over the disposal of surplus

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property. The rules set out standards for making agreements with not-for-profit organizations or agencies to dispose of state surplus. The department currently has an agreement with prison industries for the disposal of state property.

ADMINISTRATIVE SERVICES DEPARTMENT

Tuesday-9:10

Payroll deduction: tuition program contributions, IAB Vol. XXVIII, No. 01, ARC 4293B, EMERGENCY.

House File 748 establishes an optional payroll deduction for a qualified tuition program contribution, when at least 500 state employees request the deduction from the same eligible qualified tuition program. The rules are similar to those already in place for payroll deductions for charitable donations.

A tuition program is authorized by §529 of the federal Internal Revenue Code; the plan is a government-operated investment plan providing a federal tax-free way to save money for college. Earnings and withdrawals from a 529 plan are tax exempt as long as the money is used for college costs; costs include tuition, fees, books, supplies, plus room and board. This program covers any college, university, vocational school, or other postsecondary educational institution eligible to participate in the student loan program.

HUMAN SERVICES DEPARTMENT Tuesday-9:20

IowaCare program, IAB Vol. XXVIII, No. 01, ARC 4315B, EMERGENCY.

House File 841, is a Medicaid reform bill which includes a new program, "IowaCare", which may ultimately provide care to over 100,000 Iowans and expands the Medicaid population to previously uninsured adults between the ages of 19-64 and below 200 percent of the federal poverty level. Participants must pay a monthly fee, depending on income; the fee can range from one to seventy-five dollars per month. The program increases the availability of Medicaid funds by using state and county funds that are not currently matching federal funds.

The program is a capped, *non-entitlement* program with a provider network is limited to the University of Iowa Hospitals and Clinics, Broadlawns Hospital in Polk County, and four state mental health institutes. Since it is specifically a non-entitlement program, eligibility is strictly limited to available funding.

The program will replace the "state papers" program and is intended to capture additional Medicaid funds. These rules are being "emergency" adopted to begin the program on July 1, 2005. In the first two weeks of the program some 3,500 have applied for the program.

HUMAN SERVICES DEPARTMENT Tuesday-9:20

County of legal settlement, IAB Vol. XXVIII, No. 03, ARC 4395B, ADOPTED.

This filing establishes a process for certifying legal settlement of persons admitted to state mental health institutes or state resource centers and resolving disputes over settlement. Pursuant to Iowa Code §225C.8, if a billing dispute between the department and a county relating to legal settlement cannot be resolved in 90 days, that dispute is referred to the department of inspections and appeals (DIA). After a contested case hearing an administrative law judge will issue a *final* decision, which may be appealed into district court. Generally, an administrative law judge issues a proposed ruling, which can be reversed by the agency itself. In this case the department of human services has no such review rights and must appeal any adverse decision to the courts.

IOWA FINANCE AUTHORITY Tuesday-11:00

State housing trust, IAB Vol. XXVIII, No. 03, ARC 4422B, NOTICE.

Code §16.181 creates a "Housing Trust Fund" within the Iowa Finance Authority (IFA), for the development and preservation of affordable housing for low-income people. For 2006 IFA proposes minor changes in the program.

Money in the fund does not revert to the general fund. The fund consists of two programs: the local housing trust fund and the project based

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program. For each program applications are evaluated based on a series of weighted criteria, set out in the program. Both programs include a requirement for a local match, but that is not limited to cash. CDBG grants can qualify as a match; however, HUD home funds cannot. A local match is broadly interpreted and can include such things as land, buildings, infrastructure, cash, tax increment financing proceeds, tax abatement, Brownfield remediation, private contributions, loans at substantially below market interest rates or with other favorable features.

60 percent of the fund is to be allocated to the local housing trust. A local fund must have a local governing board responsible for coordinating local housing programs as recognized by the city, county, council of government or regional officials. It must serve an area with at least 10,000 in population. No single award can exceed 10 percent of the balance of the fund, plus 10 percent of any deposits. In geographic areas of 50,000 or more population, awards may be up to 200,000 dollars; for smaller areas the awards are limited to 100,000 dollars. The local fund must be used to benefit low income persons (80 percent of the *greater* of the county or the statewide median income); however, 30 percent of the moneys must serve extremely low-income people (30 percent of the *greater* of the county or the statewide metro or non-metro median income). This requirement can be met through assistance to homeless or domestic violence shelters, transitional housing projects, housing for persons with disabilities, etc. A 25 percent local match is required, a higher match will increase the applicants score. Applicants must meet a minimum score of 75 in order to be considered for funding:

- Need for housing in the community 0-25 points;
- Impact of activity 0-25 points;
- Financial & overall feasibility of activity 0-25 points;
- Leveraging & partners in activity 0-25 points;
- Administrative capacity of eligible applicant 0-15 points
- Timeline of fund activity 0-05 points;
- Newly formed local fund 0-25 points.

40 percent of the fund is allocated to project based programs. The maximum application amount is 90,000 dollars. The programs must be sponsored by local governments on non-profit organizations for the purpose of developing and preserving single and multi-family housing for low-income persons (80 percent of the median income). Owner-occupied rehabilitation is not eligible under this program. A 10 percent local match is required, a higher match increases the applicants score. Applicants must receive a minimum score of 75 in order to be considered for funding:

- Need for housing in the community 0-25 points;
- Impact of project 0-25 points;
- Financial & overall feasibility of project 0-25 points;
- Leveraging & partners in project 0-25 points;
- Administrative capacity of project sponsor 0-15 points;
- Timeline 0-05 points;

IOWA FINANCE AUTHORITY

Tuesday-11:00

Home and community-based services rent subsidy program, IAB Vol. XXVIII, No. 3, ARC 4406B, NOTICE.

This new program provides a rent subsidy for persons who participate in a home and community-based service (HCBS) waiver program. The subsidy is available to persons who pay more than 30 percent of their gross income for rent are not eligible other rental assistance. Those persons must also have a need for nursing facility level of care, and, because of a lack of affordable alternatives, may be forced to enter a nursing facility.

The amount of the subsidy is limited to 100 percent of the fair market rent under guidelines of the HUD low-rent housing program, with that amount reduced by 30 percent of the gross income of the applicant. A minimum contribution of 25 dollars toward the cost of rent is expected from all applicants.

UTILITIES DIVISION

Tuesday-11:30

Tax credits: wind energy, IAB Vol. XXVIII, No. 02, ARC 4342B, EMERGENCY.

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This filing was informally reviewed at the Committee's July meeting. Senate File 390 in part provides a maximum of 90 state tax credits for wind energy production and renewable energy. Credits are available to persons who purchase energy generated by an "eligible renewable energy facility". To encourage the growth of smaller facilities the Act requires that the facility have at least one owner for each two and one-half megawatts of generating capacity and each owner may own no more than not be an owner of more than two eligible renewable energy facilities. A facility must be majority owned by small investors.

CORRECTIONS DEPARTMENT

Tuesday-1:00

Sex offender risk assessment, IAB Vol. XXVIII, No.03, ARC 0519B, EMERGENCY.

Iowa Code 692A, as revised in House File 619, requires that any person who has been convicted of a criminal offense against a minor, an aggravated offense, sexual exploitation, an other relevant offense, or a sexually violent offense in any jurisdiction must register as a sex offender. The 2005 legislation requires that the department of corrections develop methods and procedures for assessing the risk that an offender will repeat that type of offense. The requirements for public notification procedures are published in Department of Public Safety rules, 661 IAC Chapter 8, as revised in ARC 4358B (See: infra).

Three agencies, the department of corrections, the department of human services; and the department of public safety will adopt rules relating to assessment procedures. The assessment procedures includes procedures for information sharing between corrections, human services, the juvenile court, and public safety

The corrections department will perform the assessments for inmates within 45 days of release. Appeals are allowed on three grounds only: incorrect application of the factors, accuracy of the underlying information or errors in the procedure itself. The department has the burden of proof by a

preponderance of the evidence to support the result of the risk assessment. These new rules are largely based on an earlier program for risk assessment which had been discontinued when all sex offenders were placed on the public registry, regardless of risk.

PUBLIC SAFETY DEPARTMENT

Tuesday-1:15

DNA database, IAB Vol. XXVIII, No. 02, ARC 4361B, EMERGENCY.

House File 619 significantly revises and broadens requirements for the collection of DNA samples from criminal offenders; the Act establishes a DNA database containing samples from all persons convicted of any felony or convicted of any other offense requiring registration with the Iowa Sex Offender Registry. Under prior law, Iowa Code §13.10 required the attorney general to classify felonies and indictable misdemeanors which require the offender to provide a DNA sample.

The sample is to be collected by the institution assuming custody of the offender and submitted to the DCI criminalistics laboratory. The sample itself may be destroyed after it has been entered into the database.

PUBLIC SAFETY DEPARTMENT

Tuesday-1:15

Sex offender registry, IAB Vol. XXVIII, No. 02, ARC 4358B, EMERGENCY.

House File 619 has made a number of changes to the sex offender registry. Current law requires registrants to annually verify their current address; registrants will now be required to be annually photographed by the local sheriff, and the photograph posted on the department's web site. The results of a newly required risk assessment will also be included in the database. If a registrant move to a new school district or within a district or "near" a private school, the sheriff is required to notify the administrator of that school. Rules relating to the risk assessment of offenders have been adopted by the Corrections Department [infra].

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Persons requesting information from the database may do so either by telephone, in person, or by mail. There is no fee for this information.

NATURAL RESOURCES

DEPARTMENT

Tuesday-2:15

Deer season: high-powered rifle, IAB Vol. XXVIII, No. 01, ARC 4339B, ADOPTED.

This revision to a proposed rule was informally discussed at the committee's June and July meeting. In response to the need to decrease the surplus deer population in parts of the state, for the first time the department will authorize a highly restricted use of high-power rifles for the 2004-2005 deer season. Recent hunting statistics have indicated that the traditional deer seasons and methods of take do not take enough deer in southern Iowa and that herds are continuing to grow.

With the final adoption of the season rules, the rifle hunt has been added, with two major limitations: first, the rifle hunt applies only across Iowa's southern two tiers of counties, where department representatives state that deer herds are thick; and second, the period is limited to a seven-day extension of the January antlerless season. Department representatives also note this revision in response to the growing deer population, and there is no expectation that it will be continued once the population is reduced.

A rifle must be .24 caliber or larger and cannot contain more than six cartridges in the chamber and magazine. The caliber restriction eliminates the use of the AR-15 and many other military assault rifles (but not the AK-47).

There is opposition to this change, with opponents citing safety concerns and commenting that such a significant change should be accomplished by the legislature, not through administrative rule. The department does have statutory authority to specify the method of take in a deer season; Iowa Code §481A.38 empowers the Natural Resources Commission to specify the methods of take. High-power rifles are currently used in hunting coyotes.

PHARMACY EXAMINERS BOARD

Tuesday-2:50

Electronic database, IAB Vol. XXVIII, No. 01, ARC 4284B, ADOPTED.

During the 2005 legislative session House File 833 was considered by both the House and the Senate; that legislation would have created a database to track all purchases of certain prescription drugs. Under this proposed legislation the board would maintain an electronic drug database to monitor the misuse, abuse, and diversion of certain controlled substances and other drugs designated by the board in rule. Information in the database would not be readily to the public under Iowa's Open Records Act (Iowa Code Chapter 22); access was specifically under the Act limited to certain law enforcement and medical entities.

The bill was passed by the House of Representatives, but it did not pass the Senate. Concerns were raised about protecting the privacy of Iowa's citizens and about the security of the system and the ongoing cost of maintaining this database.

The board now proposes rules to implement a portion of this system; the board takes this action because, for a limited period of time, federal funds are available to pay for the system. The proposed rules are substantially similar to the provisions of the House File 833. Information for schedule II through schedule V drugs must be submitted to the board. This requirement includes over-the-counter purchases that contain pseudoephedrine, which is a Title V, non-prescription substance. The required information is detailed, including the name, address and age of the patient. Confidentiality is maintained pursuant to the medical information exemption set out in Iowa Code §22.7.

Representatives from the Attorney General's office note that the board has existing, albeit general, statutory authority to promulgate these rules; the representative cites three statutes. First, Iowa Code §124.301 empowers the board to promulgate rules relating to the control of the dispensing of controlled substances.

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Iowa Code §124.501 states that the board:

"...is primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of... any and all other individuals... authorized to have possession of any controlled substances..."

§124.504 requires the board to:

"...co-operate with federal and other state agencies...in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may jointly...[c]o-operate with the [federal] bureau by establishing a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes..."

This proposal is controversial, especially with the groups that successfully opposed the enactment of the legislation. The board maintains that while specific legislation is desirable to establish the database, existing authority allows the board to demand and maintain that information, with the goal of uncovering prescription abuse.

ECONOMIC DEVELOPMENT DEPARTMENT

Wednesday-9:15

Grow Iowa values fund, IAB Vol. XXVIII, No. 03, ARC 4420B, EMERGENCY.

Two House Files, 868 and 809, together created and funded the "Grow Iowa Values Fund". The fund is the successor to the Vision Iowa Fund. Unlike Vision Iowa, the Grow Iowa Fund is administered by the department, with the board acting as the decision-making entity. The values fund consists of appropriated funds, interest on those funds and any repayments or other reversions; funds do not revert. House File 809 largely earmarks the funds for a variety of purposes. Within that statutory framework the department has established criteria and an application procedure for each earmarked fund.

For each of the next ten fiscal years (2005-2015) there is appropriated to this fund 50,000,000 dollars from the general. 35,000,000 of that amount is annually appropriated to fund business development type activities.

5,000,000 dollars, subject to a local match, is annually appropriated for Regents institutions for "capacity building infrastructure" in technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs for university based research.

1,000,000 dollars is appropriated annually for targeted state parks, state banner parks (multiple use)and destination parks. A similar amount is also appropriated for the Iowa cultural trust.

7,000,000 dollars is appropriated annually for the workforce training and economic development funds of the community colleges.

1,000,000 dollars is appropriated annually for economic development regional assistance.

350,000 dollars is appropriated annually to Iowa state university to provide financial assistance to establish small business development centers.

In order to receive financial assistance from the fund, the average annual wage, including benefits, of new jobs created must be equal to or greater than one hundred thirty percent of the average county wage. That wage requirement may be waived for good cause; generally, the term includes situations of local economic distress, but specifically it includes the situation where:

- The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing; and
- All jobs created as a result of the project will have a starting wage, not including benefits, equal to or greater than 100 percent of the average county wage; and
- The business is headquartered in Iowa or the project has unique aspects which will assist the department in meeting one or more of its strategic objectives.

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ECONOMIC DEVELOPMENT DEPARTMENT Wednesday-9:15

High quality job creation program, IAB Vol. XXVIII, No. 03, ARC 4372B, EMERGENCY

House File 868 replaced the new jobs and income program with the high quality job creation program. The program offers tax credits for a qualifying investment of at least 10,000,000 dollars in a non-retail business. The Act sets out a long list of criteria in order for an applicant to be approved for the tax credits available under this program. The applicant must meet four (but not all) of these criteria; they include:

- have a pension or profit sharing plan;
- manufacture a high-value added product or be part of certain high-technology industries;
- provide health insurance;
- provide child care;
- invest in research and development;
- maintain a worker safety program;
- occupy a currently vacant building.

The Act also sets out some general standards for the department to follow in selecting applicants for approval. The department is required to place emphasis on quality jobs---jobs that have:

- a higher wage scale;
- have a lower turnover rate;
- are full-time or career-type positions;
- provide comprehensive health benefits, or have other related factors.

A business approved for the program is eligible for a variety of tax incentives. The amount of tax incentives and assistance awarded under this program are based upon the number of new high quality jobs created by the approved business and the amount of qualifying investment.

These tax incentives include a refund of most of the sales and use taxes by on in conjunction with the approved business. The approved business may also claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program. The approved business

may claim a corporate tax credit for the cost of increasing research activities in Iowa.

The local community *may* exempt the approved business from property tax on the actual value added by improvements to real property directly related to new jobs created by the location or expansion of the approved business.

Tax incentives and assistance awarded under this program are based upon the number of new high quality jobs created by the approved business and the amount of qualifying investment. This filing sets out a detailed schedule that varies the allowable credit based on the number of high quality jobs created and the investment made by the approved business.

The department may approve no more than 3,500,000 dollars worth of investment tax credits and insurance premium tax credits for projects with qualifying investments of less than 1,000,000 dollars.

ECONOMIC DEVELOPMENT DEPARTMENT Wednesday-9:15

Economic development region activities, IAB Vol. XXVIII, No. 03, ARC 4421B, NOTICE.

The Grow Iowa Values Fund provides assistance for a variety of new economic initiatives.

For ten years, from July 1, 2005, and ending June 30, 2015, 1,000,000 dollars is annually available for the economic development region initiative. An economic development region consists of at least three counties, unless two contiguous counties have a combined population of at least 300,000.

Funding may be provided for physical infrastructure, such as water, sewer or telecommunications infrastructure related to the development of business and industrial sites. Funding is also available for regional economic development revenue sharing pilot projects, entrepreneurial initiatives and the purchase, rehabilitation, or marketing of a building that has

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become available due to the closing of an existing business.

The Act also provides up to 75,000 dollars annually to rural economic enterprise areas, with these funds to be used for planning and the development of business sites. These development areas consist of at least one county containing no city with a population of more than 23,500 and shall meet at least *three* of the following criteria:

- per capita income of 80 percent or less than the national average.
- household median income of 80 percent or less than the national average.
- 25% or more of the population with an income of 150 percent or less of the poverty level;
- population density of less than ten people per square mile;
- A loss of population from 1990 to 2000;
- An unemployment rate greater than the national rate;
- More than 20% percent of the population over the age of 65.

The business accelerator program provides funding for entities that are designed to support the growth of new and existing businesses through the provision of technical assistance.. A business accelerator is a non-profit entity that is affiliated with an area chamber of commerce, a community or county organization, or an economic development region. For ten years 350,000 dollars is annually appropriated to Iowa State University to establish small business development centers, subject to a dollar-for-dollar local match. Additionally, up to 50,000 dollars is available each year to training, materials, and assistance to Iowa business resource centers.

ECONOMIC DEVELOPMENT

DEPARTMENT

Wednesday-9:15

Tax credits for economic development region revolving loan fund, IAB Vol. XXVIII, No. 03, ARC 4414B, NOTICE.

As part of the formation and development of economic development regions the department may authorize up to 2,000,000 dollars annually in tax credits to individuals, nongovernmental entities and nonprofit entities that make qualifying

contributions to an economic development region revolving loan fund. A nongovernmental entity may claim a tax credit equal to 20 percent of the amount contributed to the revolving loan fund; unused credits may be carried forward for up to ten years.

INSPECTIONS AND APPEALS

DEPARTMENT

Wednesday-9:30

Registration of amusement devices, IAB Vol. XXVIII, No. 03, ARC 4377B, ADOPTED.

Iowa Code §§99B.10 and 99B10A, (2003 version) imposed a 2,500 dollars annual registration for a manufacturer or distributor of an “electrical and mechanical amusement device” which dispenses a prize. These devices are similar to video slot machines; upon winning, the player receives a paper slip awarding merchandise regularly sold at the premises. Under the wording of the statute and the department's rules, registered machines must be purchased from a manufacturer, manufacturer's representative, or distributor which also has been registered with the department. Under the rules the term “distributor”, and hence the 2,500 dollars annual fee, did not apply to a person who owns a device but does not intend to sell or lease it to another; thus a chain store could pay for a single distributor's license and then place machines in many separate locations. The committee questioned whether this was the actual intent of §99B.10A and imposed a 70 day delay.

2004 Iowa Acts, chapter 1118 was enacted to resolve a number of issues with these devices. That legislation made a number of major changes in the regulation of these devices; in part the Act:

- froze the number of registered devices at the 2004 level (6928);
- provided that registered electrical and mechanical amusement devices could be located only at an establishment holding a class "A," "B," "C," or "D" liquor license or a class "B" or "C" beer permit, no new devices may be registered to "B" or "C" beer permit holders. A class "B" permit allows beer sales to consumers for consumption on or off the premises. A class "C" permit allows beer sales to consumers at retail

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for consumption off the premises (e.g.: convenience stores);

- required a counting mechanism to determine business volume;
- limited the advertising by the owner or operator of the device, these devices may not be promoted as "slot machines";
- created a \$5,000 distributor fee applicable to a person that owns registered devices that are offered for use by the public at more than a single location;
- provided that a person under the age of 21 cannot operate a registered device.

At its July meeting the Committee finalized action on a General Referral, forwarding to the General Assembly for further study, both this rule and a provision promulgated by the Lottery Authority and relating to video lottery. This action did not impact the implementation of these filings.

BOARD OF REGENTS

Wednesday-11:15

Rules of personal conduct, IAB Vol. XXVIII, No. 02, ARC 4345B, ADOPTED.

The board updates current rules relating to student conduct---adding several provisions relating to public riot, largely the result of several incidents at the annual VESHA celebrations. The revisions begin by broadening the scope of the personal conduct code, by expanding the definition of student to include students who have been temporarily suspended, persons admitted but not yet enrolled; and persons not formally enrolled who are working on a program of studies.

Misconduct is currently detailed in the existing rules; this revision expands the list by adding specific provisions relating to rioting; this type of misconduct will result in discipline, including the possibility of expulsion, if it occurs either on campus, in the adjacent community and during any university-authorized function or event.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Wednesday-11:45

Farmers market: nutrition program, IAB Vol. XXVIII, No. 01, ARC 4285B, EMERGENCY.

In this emergency filing the department updates existing provisions relating to the farmer's market

nutrition programs. The farmer's market program is a federal/state cooperative effort administered by the Department; part of this program includes a Farmers Market Nutrition Food Program. This program serves persons who are currently enrolled in the Special Supplemental Food Program for Women, Infants and Children (WIC). The WIC program offers additional nutrition for women before, during and after a pregnancy, and provides a supplemental source of fresh fruits and vegetables for the diets of women, infants, and children. Farmers' Market Nutrition Program checks can only be used at authorized farmers markets and for eligible purchases of fresh fruits and vegetables from state Certified Farmers Market Vendors.

A related component of the nutrition program is the *Senior Farmers Market Nutrition Program*. The program is very similar to the Special Supplemental Food Program; low-income seniors, generally defined as individuals who are at least 60 years old and who have household incomes of not more than 185% of the federal poverty income guidelines are eligible to participate.

These rules expand the reach of the nutrition program. Previous rules limited the program to farmers markets, with five or more certified vendors. In actual practice, the department had approved markets with three vendors and has approved some roadside stands. These practices are now codified in the rules. The three-vendor provision is set out as a general standard, but not necessarily an absolute requirement.

The new rules also authorize participation by farmstands and by community supported agriculture programs; under these programs farmers grow food for a group of persons who are eligible for vouchers under the program but receive actual foodstuff from participating farmers instead of those vouchers. Farmstands must be located in a permanent building that is primarily used for the sale of eligible foods and remains in the same location. is not moveable and remains in the same location year-round. Up to two moveable farmstands may be authorized in cities that are not

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located within ten miles of an authorized farmers' market.

Certified vendors must follow a series of requirements, which generally are designed to protect the integrity of the program and ensure adequate product choice for the participant. It should be noted that representatives of the federal program, which funds the vouchers, have expressed concern that some of these revisions will result in fewer alternatives for voucher holders and perhaps a lesser quality of product.

REAL ESTATE COMMISSION

No Rep.

Discipline of unlicensed persons, IAB Vol. XXVIII, No. 01, ARC 4283B, ADOPTED.

Iowa Code §543B.34 states that the jurisdiction of the board applies to any "person who assumes to act [as a broker or real estate sales person] capacity within this state." That section goes on to list a variety of actions that can result in discipline. The proposed rules establish a number of additional disciplinary grounds for unlicensed persons; these include:

- Performing acts or practices which require licensure.
- Representing oneself to the public as a real estate broker, broker associate, or salesperson, without first obtaining a license.
- Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
- Use of an expired, suspended, revoked, or nonexistent license.
- Falsely impersonating a licensed real estate professional.
- Providing false or forged evidence to obtain a license.
- Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

Since an unlicensed person cannot have a license suspended or revoked, these rules state that the commission can issue a cease and desist order and may impose civil penalties against an unlicensed person of up to the greater of \$10,000 or 10 percent of the real estate sale price.

RECORDS COMMISSION

10:40

State government E-mail, IAB Vol. XXVIII, No. 03, ARC 4315B, NOTICE.

This proposed rule does not create a new policy so much as it clarifies that under Iowa law electronic communications can, under some circumstances, be considered a public record; the rule establishes a specific retention policy for electronic mail---commonly called E-mail. In essence this rule will mean that e-mail cannot be automatically treated as private or non-consequential. The rule defines a "record" as:

a document, book, paper, electronic record, photograph, sound recording, or other material regardless of physical form or characteristics, made, produced, executed, or received pursuant to law *in connection with the transaction of official business of state government.* [see: §305.2(9)]

Under this proposed rule electronic mail that falls within this definition is to be retained and disposed of in accordance with records series retention and disposition schedules. This rule requires that "e-mail" which qualifies as a record must be maintained as "authentic, reliable and trustworthy" during the retention period. Unauthorized users must not be able to modify, destroy or distribute E-mail messages from an E-mail storage system.

IOWA VOLUNTEER SERVICE COMMISSION

No Rep

Retired and Senior Volunteer Program (RSVP), IAB Vol. XXVIII, No. 02, ARC 4346B, EMERGENCY AFTER NOTICE.

These rules were initially published as a notice of intended action in May; no comments have been received. 2005 Iowa Acts, House File 478 codifies the Iowa Volunteer Service Commission. The commission was initially established in 1994 by Executive Order No. 48. Under the Act the commission remains part of the Governor's Office; its' mission is to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation and serve as the state's liaison to national and state organizations which support volunteer service activities

THE RULES DIGEST

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The retired and senior volunteer program (RSVP) was initiated in 1986 and administered by the Department of Elder Affairs. It is now transferred to the Volunteer Service Commission. RSVP is part of a network of national service programs that provides older Americans with the opportunity to provide public service in their local communities. It is a federal program that is part of Senior Corps. RSVP is open to people age 55 and over. Public and private receive grants to sponsor and operate RSVP projects in their community. The average commitment is four hours a week