



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

October 2007

Scheduled for committee review
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Reference
XXX IAB No. 06(09/12/07)
XXX IAB No. 07 (09/26/07)

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SECRETARY OF STATE

9:40

Absentee voting; electioneering, IAB XXX No. 7, ARC 6266B, FILED EMERGENCY AFTER NOTICE.

The proposed rules provide county election commissioners instructions for mailing and receiving absentee ballots. The following materials must be mailed to each person who requests an absentee ballot: ballot; public measure text; secrecy envelope; affidavit envelope; return carrier envelope; delivery envelope; instructions; and a receipt.

Upon receipt in the commissioner's office the date must be written or stamped on the carrier envelope and the ballot must be stored in a secure location. All absentee ballots returned to the commissioner's office must be reviewed, including those of ballots returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. The review may be done by staff designated by the commissioner. While the commissioner may direct a staff member to open the return carrier envelopes manually or with an automatic letter opener, only a

trained reviewer may remove the contents of the envelope.

The reviewer must make sure that the affidavit envelope is sealed, apparently with the ballot inside, the affidavit envelope has not been opened and resealed, and the affidavit includes an address, signature, and for primary elections, a political party affiliation. Defective or deficient affidavits should be stored separately.

The commissioner must contact the voter if the reviewer finds any flaws in affidavit or the or affidavit envelope. The commissioner is required to keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter. Within 24 hours after receipt of an absentee ballot with a deficient affidavit, the commissioner must send a notice to the voter explaining the reason for the deficiency, the voter's options for correcting the affidavit, and the commissioner's office contact information.

The proposed rules also include an amendment that changes the limitation on the distance from a satellite absentee voting station from which political signs and activity are barred. In 2005,

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Iowa Code §53.11 was amended to extend this zone from 30 feet to 300 feet.

Under the proposed rules, county election commissioners would be able to refuse to conduct satellite voting for the runoff election if a special election is scheduled to be held between the regular city election and a city runoff election.

ELDER AFFAIRS

10:00

Senior internship program, IAB Vol. XXX No. 6, ARC 6228B, NOTICE.

The proposed rules implement a senior internship program (SIP), which encourages and promotes employment opportunities in both public and private sectors for persons aged 55 and older. The SIP must be in accordance with Title V of the federal Older Americans Act.

Two different funding sources support the SIP. The first eligibility group receives federal funding under Title V of the Older Americans Act to promote part-time, work-based training opportunities in local communities for unemployed, low-income individuals. The second eligibility group is funded by a state appropriation and offers the services needed to assist underemployed or unemployed individuals in such areas as skill assessment, résumé and interview assistance, application completion, and job counseling. The goal of both funding groups is to obtain unsubsidized employment for eligible individuals.

Core services in the SIP are labor market information, an initial assessment of skill levels, and job search and placement assistance. To be eligible for core services, SIP applicants must be aged 55 or older, a current resident of the state of Iowa, and be unemployed or underemployed. To be eligible for the SIP Title V subsidized employment program applicants must be aged 55 or older, unemployed, and meeting income guidelines established annually by the U.S. Department of Labor.

Public and private not-for-profit organizations and agencies will be contacted to respond to a request for proposals (RFP). The department's funding selection criteria are: (1) public, private, or nonprofit organizations with proven management

and administrative capabilities to provide employment and training services to older workers; (2) the sponsor's ability to comply with the requirements set forth in the RFP; and (3) current or existing management and administrative capabilities of the organization. The agencies selected will be "subproject sponsors." Subproject sponsors provide program services on behalf of the grantee, and are required to follow all applicable laws, rules, and regulations.

The proposed rules list twenty responsibilities for subproject sponsors under the Title V SIP. Those responsibilities include, but are not limited to:

- Minimizing the number of vacant part-time positions;
- Listing all vacant positions with the local workforce development center;
- Ensuring recruitment efforts are targeted toward minority, limited English-speaking individuals, and individuals with the greatest economic need;
- Meeting the state performance measures established in the RFP;
- Developing job opportunities for job-ready participants;
- Assisting participants in accessing approved training sessions;
- Providing support services to participants; and
- Completing an individual employment plan (IEP) for each Title V participant.

Sub-project sponsors are also required to submit performance, fiscal, and program reports to the department of elder affairs.

The department must conduct desk monitoring of the SIP, but may conduct on-site monitoring if circumstances require an inspection of subproject sponsor records. The department is also required to conduct an on-site assessment of each SIP subproject at least annually.

ECONOMIC DEVELOPMENT DEPARTMENT

10:45

Film, television, and video project promotion program, IAB Vol. XXX No. 06, ARC 6218B, ADOPTED.

This filing was initially reviewed by the Committee in July, adopted as an emergency rule. A similar package of rules was promulgated by the Department of Revenue 2007 Iowa Acts, House File 892 created the Film, Television, and Video Project Promotion Program. The program will

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assist the production of film, television, and video projects within the state. To be eligible a project must:

- produce an entire film, television, or video episode or a film, television, or video segment in the state;
- expenditure at least \$100,000 in the state and have an economic impact that justifies assistance under the program;
- further tourism, economic development, and population retention or growth in the state or locality;
- be intended to be widely distributed beyond the Midwest;
- will not depict or describe any obscene material.

Two tax credits are available under the program. The qualified expenditure tax credit will provide a credit for certain expenditures made on a project. Qualified expenditures are payments to an Iowa resident or an Iowa based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the project.

A qualified investment tax credit is available for a portion of a taxpayer's investment in a project.

Both tax credits equal 25 percent of the expenditures or investments in a project on or after January 1, 2007. When issued, the tax credit certificate is transferable. Tax credit certificate amounts of less than \$1000 are not transferable. A maximum of two transfers are allowed. Any tax credit in excess of the tax liability for the tax year may be credited to the liability for the following five years or until depleted, whichever is earlier.

Regional tourism marketing grant program, IAB Vol. XXX No. 6, ARC 6216B, NOTICE.

The proposed rules implement a new grant program financing out-of-state cooperative advertising. The program is funded by a portion of gaming revenues. Applicants may be public or private members in a county in good standing in one of the three Iowa tourism regions. Grant funds are only to be used to place advertising in out-of-state markets targeted by the Department's office of tourism. The out-of-state markets include Illinois, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. The advertising may appear in newspapers or magazines, and on radio, television, billboards or online. Grant funds, however, may not be used for production costs and may only consist of 50% of the of the advertising

placement costs. Matching funds must be in cash and make up the other 50%.

A review committee will read and score all applications. The review committee must ensure that the application is from an eligible applicant, the advertising will be placed out of state in a market targeted by office of tourism, the 50% match is available, an advertising plan has been developed, and a method to measure the effectiveness of the advertising has been developed. The Department of Economic Development will enter into a contract with a tourism region to provide funding for those approved applicants located within that tourism region. Then each successful applicant must contract with its respective tourism region for the funding.

Each successful applicant must submit a written evaluation summarizing the results of the advertising campaign to its tourism region within 60 days of placement. Tourism regions are responsible for maintaining records to verify that grant funds were spent in accordance with the contracts.

Demonstration Fund, IAB Vol. XXX No. 6, ARC 6215B, NOTICE; ARC 6217B, FILED EMERGENCY.

These emergency rules implement a new program to provide financial and technical assistance and encourage high technology prototype and concept development activities that have the potential to be commercially viable. Applications from eligible businesses will be submitted to the department's targeted industries division. The application will be reviewed by the department staff, the technology commercialization committee and the Iowa economic development board. The committee will make a recommendation to the board about an application. The board has final decision-making authority on applications for assistance.

The application must include information, including but not limited to:

- Description of the product or service, the experience of those involved in the project, and company resources;
- Market research;
- Description of the key next steps to the project;
- A work plan including project milestones; and

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- Description of the resources and budget required, including matching funds.

One of the factors for selection includes how the ownership of the intellectual property is structured, which includes a preference for exclusive IP ownership by the business. Selection criteria also include the business's experience, the estimated time to complete the project, market research, the amount of financial assistance required, distribution channels for the product or service, and the expected return.

Eligible applicants must be located in Iowa, demonstrate the potential for high growth, and be in the fields of biosciences, information technologies, or advanced manufacturing. Businesses that are engaged in retail sales or provide health services are not eligible. Also, a business which closes or substantially reduces its workforce by more than 20% at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites.

Awards will only be made on a per-project basis and are limited to \$150,000 per project. Funds may be used to refine a prototype, acquire managerial experience, purchase equipment, or create marketing materials. Funds may not be used for university overhead expenses or any work that was conducted prior to the term of the contract by the applicant or any third-party consultant. The forms of financial assistance may consist of, but are not limited to, loans, forgivable loans, grants and such other forms of assistance that are consistent with the needs of a given project. Applicants must demonstrate the ability to secure one dollar of non-state assistance for every two dollars received from the department.

Successful applicants must contract with the department to establish the parameters of the assistance. A successful applicant must also provide any information requested by the department to permit the department to prepare the report required by 2007 Iowa Acts, House File 829.

ENVIRONMENTAL PROTECTION COMMISSION

1:30

Landfills: financial assurance, IAB Vol. XXX, No. 07, ARC 5633B, ADOPTED.

Iowa Code §455B.304(8) states: "*The commission shall adopt rules which establish closure, postclosure, leachate control and treatment, and financial assurance standards and requirements and which establish minimum levels of financial responsibility for sanitary disposal projects.*"

The EPC updates existing rules relating to financial responsibility for cleaning up landfills. Rules are currently establish financial assurance requirements for municipal solid waste landfills, compost facilities and transfer stations. The EPC now proposes financial requirements for a variety of solid waste facilities; these include: coal combustion residue landfills, solid waste processing facilities, construction and demolition waste landfills, appliance demanufacturing facilities, persons applying solid wastes and petroleum-contaminated soils to land areas, cathode ray tube collection facilities, and household hazardous waste regional collection centers.

Every landfill must maintain an updated estimate of the cost to properly close the landfill; the steps required to close a landfill are detailed in the rule. Chapter 111 specifies a series of financial mechanisms that can be used to meet the closure requirements. Landfills must also maintain financial assurance for *postclosure* work. The format is similar to that used for the closure regulations for landfills. With this rulemaking all regulated waste facilities will be subject to specific financial requirements.

Detailed financial requirements are set out for coal ash landfills, bio-solid monofills and construction landfills. All facilities must estimate, and certify by an Iowa-licensed professional engineer, the costs of closure for the landfill, which must be based on the most expensive costs of postclosure. The facilities must also provide financial assurance in an amount equal to or greater than the amount needed for closure; actual requirements vary depending on the type of facility. The required financial assurance may be provided by a trust fund, surety bond, letter of credit, insurance or other evidence detailing adequate financial responsibility.

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A solid waste processing facility, a composting facility, a collection facility and a transfer station have less detailed requirements, since there is no permanent storage of waste. The facility must maintain a closure account as financial assurance. The account must contain an amount at least equal to the current cost estimates for closure of all sanitary disposal project activities. Appliance de-manufacturing, land application projects and landfarms must maintain a surety bond.

Cathode ray tube collection or re-cycling facilities both have specific requirements, based on the volume of material.

Regulatory analysis: limits on applications of nitrogen, IAB Vol. XXX, No. 07, ARC 5633B.

On January 3rd the EPC published a notice of intended action limiting application of liquid manure, process wastewater or settled open feedlot effluent to 100 pounds of available nitrogen per acre to land that is planted to soybeans or that will be planted to soybeans the next crop season. Five years after the rules go into effect, application on these fields would be prohibited unless the EPC determined that available scientific evidence justifies alternative action. Stakeholders requested a regulatory analysis on this proposal, which postponed final adoption of the rule.

The statement contends that the application of nitrogen to row crops is a major nitrate source in Iowa groundwater, and that limiting the application of liquid manure, process wastewater or settled feedlot effluent to fields with perennial crops greatly reduces this level.

The analysis contends that nitrate losses can be 30 to 50 times higher in row crops than perennial crops and these rules will reduce the level of those losses. The analysis does not attempt to quantify the benefits of reducing the application of nitrogen, noting that it is unknown to what extent this will reduce the level of nitrates in surface waters.

The statement does not estimate a specific financial impact; instead, it describes the nature of the impact and the persons affected by it. Confinement feeding operations and open feedlots required to have a management plan could be affected since there would be limitations on where

liquid manure and effluent could be land applied. Farmers who apply liquid manure and effluent to soybean fields could also be affected. Applicators may be required to transport manure greater distances to apply manure to fields that will not be planted to soybeans and may need equipment if they apply manure nutrients to soybean acres at the reduced rate.

INSPECTIONS AND APPEALS

No rep.

Card game tournaments by veterans organizations, IAB Vol. XXX No. 06, ARC 6053B, ADOPTED.

These rules were initially reviewed at the committee's August meeting. 2007 Iowa Acts, Senate File 414, authorizes the licensure, operation and taxation of card game tournaments by veterans organizations. Games are limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, or cribbage. Only the veterans organization may conduct the tournament, which must be held on the premises. Under the Act the total number of members and guests participating in a card game tournament cannot exceed the occupancy limit of the premises. Participants must be at least twenty-one years of age.

If the tournament is limited to one guest for each participating club member, the cost to participate in a card game tournament is limited to one hundred dollars for every participant. Cash or merchandise prizes may not exceed \$1,000 and no participant may win more than a total of \$500.

If the card game tournament is not limited to one guest for each participating member the cost to participate in a card game tournament is limited to \$25 dollars for every participant. Cash or merchandise prizes cannot exceed \$300 and no participant may win more than a total of \$200.

A veterans organization may hold two card game tournaments per month, but cannot hold a tournament within seven calendar days of another tournament.

UTILITIES DIVISION

No Rep.

Incident and outage reporting, IAB XXX No. 7, ARC 6267B, NOTICE.

Following the February and March 2007 ice storms, the Iowa Utilities Board reviewed its

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current incident and outage notification and reporting rules for natural gas utilities, electric utilities, rate-regulated water utilities, communications providers, and owners and operators of energized electric facilities. The experience during the storms demonstrated that the current rules are outdated and incomplete.

All utilities will now also be responsible for maintaining a 24-hour contact number where the board can obtain current information about outages and incidents from a knowledgeable person.

The proposed rules change the definition of "interruption of service" as it pertains to natural gas utilities. An interruption will exist when there is a disturbance of service to a single customer rather than requiring there be fifty or more affected.

The proposed rules rescind rule 19.2(5) regarding incident reports for gas utilities and replace it with new rule 19.17. The proposed rule requires gas utilities to report to the board duty officer any event involving the release of gas, failure of equipment, or interruption of facility operations, which result in a death or personal injury, estimated property damage of \$15,000 or more, emergency shutdown of a liquefied natural gas facility, an interruption of service to 50 or more customers, or any other incident considered significant by the utility. The board is to be notified by phone as soon as practical. A written report of the incident must also be filed with the board within 30 days of the incident.

The proposed rules amend electric utilities' notification and reporting requirements for outages. Electric utilities are required to notify the board of any outage that results, or is expected to result, in:

- loss of service for more than one hour to 2,000 or more customers or 50% or more of a utility's customers, whichever is less;
- loss of service for more than one hour to substantially all of a community;
- a major event as defined in subrule 20.18(4); or
- any other outage considered significant by the electric utility.

The proposed rule requires electric utilities to report outages to the board duty officer. The board is to be notified by phone as soon as practical. A written report of the incident must also be filed with the board within 30 days of the incident.

The proposed rules require water utilities to notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving a waterborne emergency, a boil water advisory and contamination event, or a low pressure event. The notification must be made by calling the board duty officer and leaving the name and call-back number for a person knowledgeable about the incident. The utility must also notify the board once the incident has ended and normal water service has been restored.

The proposed rules require all communications providers included in the federal regulations to provide notification, outage reports, and current contact information. Communications providers must notify the board of reportable outages as defined in the federal regulations by calling the board duty officer as soon as reasonably possible after discovering the outage, but no later than immediately after submitting the required electronic notification to the FCC. Communications providers are also required to submit copies of any FCC reports to the board immediately after they are filed with the FCC. Incident reports must be filed if the incident results in death or personal injury requiring hospitalization, property damage of \$15,000 or more, or any incident considered significant. Incidents reports must be made as soon as practical to the board duty officer and any written reports must be filed within 30 days of the incident.