



Administrative Rules Review Committee

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THE RULES DIGEST

November, 2008

Scheduled for committee review
FRIDAY, NOVEMBER 7th, 2008 8:30 A.M.
Senate Committee Room #116

Reference
XXXI IAB No. 08(10/08/08)
XXXI IAB No. 09(10/22/08)

HIGHLIGHTS IN THIS ISSUE:

TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM, Economic Development .....1
SMALL BUSINESS DISASTER RECOVERY PROGRAM, Economic Development .....2
USE OF RESTRAINTS, PHYSICAL CONFINEMENT OR DETENTION, Education Department .....3
JUMP-START HOUSING ASSISTANCE PROGRAM, Iowa Finance Authority .....4
MENTAL HEALTH PROGRAMS, Human Services Department .....5

ECONOMIC DEVELOPMENT
DEPARTMENT

8:45

Targeted jobs withholding tax credit program, IAB XXXI
No. 8, ARC 7249B, NOTICE.

The Department of Economic Development
proposes a number of amendments to the targeted
jobs withholding tax credit program. An earlier
version of this filing was reviewed at the
Committees' September meeting. This program,
created in 2006, funds a targeted jobs credit in
pilot project cities designated by the Department,
subject to strict guidelines set out in the statute
itself.

The credit equals 3% of the gross wages paid by
the business to the employees in the targeted jobs.
The credit is paid to the pilot project city for the
payment of debts incurred or assistance provided
by the city for urban renewal projects related to the
business in the urban renewal area.

At the September Committee meeting,
Department representatives circulated a re-draft of
that notice containing significant revisions.
Committee members expressed concern that these
changes would be incorporated into the final
adopted rule without additional opportunity for

public comment. The Department withdrew that
notice and the new language is now presented in a
new rulemaking.

\* \* \*

Lean manufacturing institute, XXXI IAB 08, ARC 6940B,
ADOPTED.

In 2007 Iowa Acts, chapter 122, §§ 7(1), 7(2),
and 7(8), the legislature authorized the creation of:
a "lean manufacturing institute" to provide
executive level, in-depth training assistance to
manufacturing companies in the state, a statewide
supplier capacity and product database, and an
executive level recruitment program to attract top
talent to targeted companies. All three programs
target companies in the area of biosciences,
information technologies, and advanced
manufacturing.

The lean manufacturing institute will provide
technical assistance to enhance manufacturing
efficiency. The manufacturing supply chain
development program is a collaboration between
the Iowa Department of Economic Development
and the Department of Workforce Development to
provide targeted companies with technical
assistance for supply chain development. The
program will establish a database providing

## THE RULES DIGEST

-2-

contacts with Iowa suppliers. The management talent recruitment program will develop activities for the recruitment of out-of-state executive and operations management personnel for new or expanding targeted industries.

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Community development block grant funds, XXXI IAB 09, ARC 7276B, ADOPTED.

The Department periodically updates and revises the Community Development Block Grant (CDBG) program. This revision adds "sustainable community projects" as a replacement for the current "bold possibilities" projects, funded out of the contingency fund and changes the amount of the fund from five percent of all block grant funds to one million dollars. The revision also adds the eligibility criteria for the downtown revitalization fund. The maximum award is limited to \$500,000 and applications will be evaluated according to the following criteria:

- Community impact of the project.
- Readiness to proceed.
- Level of community support.
- Leverage by other funding sources and local financial support.
- Degree to which the activity meets or exceeds the minimum building and site design criteria.
- Level of planning.

\* \* \*

River enhancement community attraction and tourism fund, XXXI IAB 08, ARC 6940B, ADOPTED.

This filing establishes the rules for the new River Enhancement Community Attraction and Tourism Fund set out in 2008 Iowa Acts, Senate File 2430. This fund will provide financial assistance to projects that promote recreational opportunities and community attractions on and near rivers or lakes within cities. These would include: pedestrian trails, amphitheaters, bike trails, water trails, and whitewater courses.

The filing also sets out additional evaluation criteria for community attraction and tourism programs, adding a "green" component to the evaluations. Green criteria include:

- Conservation of natural resources by reducing waste and pollution through efficient use of land, energy, water, and materials.
- Capture, retention, infiltration and harvesting of rainfall using storm water best management practices.

- Implementation of the green sustainable design principles set out in the green design checklist.
- Incorporation of renewable energy sources including solar, wind, geothermal, and biofuels.
- Use of healthy and sustainable building materials, furnishings, cleaning products, and maintenance practices.

\* \* \*

Small business disaster recovery financial assistance program, IAB XXXI No. 9, ARC 7273B, FILED EMERGENCY.

This rulemaking revises the program adopted by the Iowa Economic Development Board on September 18, 2008 and published in the October 8, 2008 IAB as ARC 7235B. The purpose of the program is to provide financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. Based on public comments received, the Department adopted the following amendments:

- Clarifying the definition of "business" to include both for-profit and nonprofit businesses and further clarifying that a "business" includes a commercial landlord.
- Expanding the list of allowable lenders to include a rural electric or telephone cooperative with an established EDA-based or USDA-based revolving loan fund program or intermediary relending program.
- Increasing the maximum amount available to an eligible business from \$50,000 to \$55,000. Of this amount, \$5,000 is available for energy-efficient purchases and installation.
- Clarifying the amount eligible for reimbursement for energy-efficient purchases.
- Requiring that an eligible business have executed loan documents from an eligible lender.

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Housing fund, IAB XXXI No. 9, ARC 7274B, Filed Emergency.

The primary purpose of the housing fund, made up of federal CDBG and HOME funds, is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans. Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation, rental housing new construction, home ownership assistance, owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by the Department.

The Department's amendment eliminates the requirement for a match from the participating

## THE RULES DIGEST

-3-

jurisdictions (Cedar Rapids, Iowa City, Des Moines, Waterloo, Council Bluffs, Davenport, and Sioux City) for the 2009 program year (October 1, 2008 through September 30, 2009) funding. Typically, an application located in a designated participating jurisdiction must show evidence of a financial commitment of at least 25% of the total HOME funds requested. This change will make it easier for those communities to use HOME funds to undertake disaster recovery housing projects.

### EDUCATION DEPARTMENT

9:40

Use of restraints, physical confinement or detention, IAB XXXI No. 08, ARC 7212B, ADOPTED.

The Department proposes revisions to the rules which implement the general statutory ban on corporal punishment. The Department received twenty-one written comments and five persons made oral comments after the notice was published in July. The Department made some changes to the rules in response to those comments.

Several comments addressed the possibility that the proposed rules would restrict such practices as seat detention and in-school suspension. The Department did not intend to affect those practices and added a definition for "physical confinement and detention" to clarify the chapter's application. Clarification was also made to the term "dangerous instrument."

Comments regarding post-incident debriefing of students and staff, parental notification requirements, and the use of key-operated locking mechanisms were incorporated into the final version of the rules. However, the Department chose not to make changes to the rules addressing an administrator's involvement in decisions about lengthy restraint, time limits on physical confinement, and the videotaping of physical confinement.

\* \* \*

Competent private instruction: teacher qualifications, IAB Vol. XXXI, No. 09, ARC 7211B, NOTICE.

For the first time in over 12 years the Department, following consultation with the Network of Iowa Christian Home Educators (NICHE), proposes changes to the rules that give guidance to parents, guardians, and custodians,

school boards, and teachers providing or assisting and supervising competent private instruction to children of compulsory attendance age outside the traditional school setting.

The proposed rules set specific dates for filing mandatory reports of competent private instruction (CPI) with the Department, clarify rules relating to the provision of instructional materials, and conform certain rules to changes in federal regulations related to the Individuals with Disabilities in Education Act (IDEA).

The rules also seek to differentiate between the duties of supervising teachers who are privately retained by families and those hired by a school district to provide a home school assistance program. The proposed rules also address content area endorsement requirements and limit teachers who only possess a substitute authorization.

Under this revision, school districts which provide a home school assistance program must employ a teacher with the appropriate certificate or license. For a teacher providing actual instruction, the license or certificate must be appropriate *both* to the content area taught and to the grade level of the student. For a teacher providing only supervision, the license or certificate must be appropriate to the grade level of the student.

A teacher that is retained privately must hold a license or certificate which is appropriate to the grade level of the student. The teacher may not supervise the instruction if the teacher holds only a valid substitute authorization.

This rulemaking also proposes to formalize the long-standing appeal decision of the Department that a child under "dual enrollment" must receive at least one-quarter of the child's instruction by way of CPI and no more than three-quarters by way of the district's academic programs.

### PHARMACY BOARD

9:50

Centralized prescription filling and processing, IAB XXXI No. 8, ARC 7229B, Notice.

The Board proposes to eliminate the requirement for written authorization from a patient before a pharmacy outsources the filling or processing of a patient's prescription. Rather than obtaining a written authorization, the Board

## THE RULES DIGEST

-4-

proposes to require the pharmacy to display a sign and provide written notice to patients prior to implementing a centralized filling or processing program or prior to providing pharmaceutical services to a new patient. The proposed rule would still require the pharmacy to provide the name of the filling or processing pharmacy or notify the patient that the filling or processing pharmacy is under common ownership.

### IOWA FINANCE AUTHORITY

10:20

Jump-start housing assistance program, IAB XXXI No. 08, ARC 7253B, EMERGENCY.

The IFA implements a new housing assistance program assisting homeowners living in those parts of Iowa declared as federal disaster areas. IFA will grant funds in accordance with this chapter to local governments who will then loan funds to eligible residents to assist them in purchasing or repairing homes, making mortgage payments, and paying for other eligible property-carrying costs. The local government may retain no more than 5% of the funds for administrative expenses.

Forgivable loans made under the program are forgivable over a ten-year period with one-tenth of the total principal amount forgiven each full year the resident owns the home. Loans are for a ten year period and are interest-free. Any principal that has not yet been forgiven at the time the home is sold is due and payable on that sale.

### ENVIRONMENTAL PROTECTION COMMISSION

11:00

Beverage container deposits, IAB XXXI No. 8, ARC 7210B, EMERGENCY AFTER NOTICE.

In 2008 Iowa Acts, House File 2700, \$1 million from the general fund was appropriated to an independent redemption center grant fund for improvements to independent redemption centers in existence prior to July 1, 2008. These centers are independent businesses authorized by law to redeem bottle and can deposits. Iowa Code Chapter 455C provides for both approved and unapproved redemption centers. Both redemption centers redeem empty beverage containers and pay the refund value to consumers. Approved redemption centers relieve specified grocers of the

obligation to redeem cans on their own site. By law redemption centers receive one cent for each can received.

The goals of the fund are to enable independent redemption centers to become more sustainable, convenient, and accessible. Grant amounts are limited to a maximum of \$15,000 for any redemption center.

The Commission held a public hearing on August 19, 2008 and summarized the comments received at:

[http://www.iowadnr.com/waste/recycling/files/resp\\_summary.pdf](http://www.iowadnr.com/waste/recycling/files/resp_summary.pdf).

The summary indicates that many of the concerns are already addressed by the rules and other concerns were directed toward the underlying statute. Based on the comments received, the Commission made no changes to the rules prior to adoption.

### HUMAN SERVICES DEPARTMENT

11:20

Appropriations issues, IAB XXXI No. 7, ARC 7137B, NOTICE; 7122B and 7125B, EMERGENCY. HELD OVER FROM SEPTEMBER.

The issue is the same in these three filings, initially reviewed at the Committees October meeting. Each filing institutes program changes which have an unappropriated cost impact.

ARC 7137 is a notice of intended action which would restore Medicaid coverage of periodontal and endodontic dental services for members 21 years of age or older. This coverage was eliminated in 2002. Department representatives states that providing periodontal and endodontic dental services is cost-effective because it can avoid future medical problems and avoid the costs of extractions and dentures. Committee members were concerned over the cost of this program, noting the cost of \$402,000 in FY 2009 and \$817,000 in FY 2010. Noting that the program had been considered during the appropriation process but was not funded, members questioned whether it was appropriate to create a program that would required legislative funding.

The same issue is presented in ARC 7122B and 7125B. Both are emergency filings related to increases in mileage reimbursements. The

## THE RULES DIGEST

-5-

mileage increase on Medicaid transportation will impact 75.00% of medical transportation claims, costing \$303,000 in FY 2009 and \$393,000 in FY 2010. The mileage increase for promise jobs will cost \$488,000 in FY 2009 and \$605,000 in FY 2010. Committee members questioned whether it was appropriate to commit to higher reimbursements when the economic future remains uncertain.

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Emergency mental health crisis services system, IAB Vol. XXXI, No. 08 ARC 7263B, NOTICE.

2008 Iowa Acts, Senate File 2425, § 52 provides for the creation of an emergency mental health crises services system to provide statewide, time-limited, mental health intervention services in emergency situations and to promote timely access to appropriate services for those who require ongoing mental health services. The services system must be available 24/7 for any person in a "crisis situation."

For FY 2009, \$1.5 million has been appropriated. The Department will contract with eligible service providers. The following services must be available:

- Telephone crisis service. Available 24/7.
- Mobile crisis service. Provides on-site, in-person interventions for persons experiencing a mental health crisis. Available 24/7.
- Walk-in crisis service. Available eight hours a day, five days a week.
- Crisis care coordination service. Provides referrals to mental health services and other supports. The service shall be available eight hours a day, five days a week.

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Mental health services system for children and youth, IAB Vol. XXXI, No. 08 ARC 7265B, NOTICE.

2008 Iowa Acts, Senate File 2425, §53 provides for mental health treatment, services, and other support in the least restrictive setting possible, for children and youth. Under the Act, the Department will develop these services through existing community mental health centers or other service providers.

Services under this program are directed toward children and youth who have or are at risk for serious emotional disturbance, who have mental health disorders, or whose mental or emotional condition represents a danger. The actual services to be provided will be determined after a comprehensive mental health assessment which identifies functional skills, strengths, and services needed; and the development of an individualized service plan comprised of clinically indicated services and supports.