

**MINUTES OF THE SEPTEMBER 2004 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, September 14, 2004, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Michael Connolly, John P. Kibbie, Mary Lundby and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, and Geri Huser. Representative David Heaton was not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Julie Pottorff representing the office of Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened Chair Eichhorn convened the meeting at 9 a.m.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.
- ARC 3601B No action on amendments to implement an assessment fee at intermediate care facilities for the mentally retarded.
- ARC 3602B No questions on amendments to chs 50 to 52 pertaining to state supplementary assistance for persons who are Medicaid and Medicare eligibles.
- ARC 3603B No action on 61.18, which establishes an Iowa refugee services foundation.
- ARC 3604B No questions on 65.8(7) concerning excess medical expense deduction.
- ARC 3609B No action on requirements for HCBS waivers.
- ARC 3608B No questions on Medicaid coverage for dental hygiene services in maternal health centers.
- ARC 3610B Amendments to chs 130 and 170 pertain to child care services. Huser asked that the department ensure that the rules do not require two different case plans for the adoption subsidy group.
- Discussion The department sought committee advice regarding publication of rules which are adopted after having been simultaneously emergency adopted and noticed. The publication costs are \$22 per side, or \$44 per page. The committee made no recommendation but requested further information about the number of pages and costs involved.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland and Dr. John Schiltz represented the department.
- ARC 3598B No questions on termination of the notice for feeder pig dealer bonding and letter of credit requirements which were emergency adopted.
- ARC 3600B No questions on amendments to ch 68 concerning dairy rules.
- ARC 3599B No action on amendments to ch 76 relating to meat and poultry inspections.
- Update Rowland reported that the department received a one-year grant of \$177,000 from the federal government to fund the CWD monitoring program. Schiltz explained that the grant includes funding for indirect costs and overhead; McKinley requested a breakdown of the department's allocation of the grant funds. Frevert noted that members of the farm deer council are greatly relieved and have expressed appreciation to the department and the committee.
- COLLEGE STUDENT AID COMMISSION** Gary Nichols represented the commission.
- ARC 3584B No questions on termination of the proposed amendment to 12.1.
- ARC 3585B Proposed ch 37 pertains to student loan debt collection. Nichols indicated that the default rate is about 6 percent, which is about half the national average; and the administrative wage garnishment is used when the commission is unable to establish a voluntary repayment agreement. Eichhorn asked that Royce be provided information about garnishment actions taken by the commission.
- EDUCATION DEPARTMENT** Carol Greta represented the department.
- ARC 3612B Proposed ch 35 is intended to govern extended school programs for students over the age of 21 who have not graduated from high school or obtained a GED; however, Greta noted that no school district in Iowa has an extended program. McKinley requested a letter from the department indicating when the program was established legislatively and how many have accessed it.
- Motion Huser moved a general referral of the program and a recommendation for termination of the proposed rules.
- Motion carried The motion carried.
- ARC 3611B No action on student teaching requirements established in 79.13(2).
- CAPITAL INVESTMENT BOARD, IOWA** David Casey represented the board.
- ARC 3595B No action on proposed amendments implementing SF 443. Casey noted that the board rescinded approved credits for a company that has moved out of state.

REVENUE DEPARTMENT David Casey represented the department.

ARC 3613B Casey reported that, as a result of the special session of the legislature, some provisions of this rule making are no longer in compliance with the Code. The committee suggested an emergency rescission of noncompliant rules and adoption of emergency rules to implement the legislation.

ARC 3614B No questions on 39.13 concerning electronic filing of individual income tax returns.

ARC 3596B No action on proposed amendments to chs 42, 52 and 58 regarding tax credits for an equity investment in a qualifying business.

Special review Royce reported, as background information, that drain line cleaning services previously had not been taxed. Last year the department issued a declaratory order that drain cleaning is a plumbing service subject to tax. Casey indicated that the department routinely exercises its authority to interpret tax laws; the committee took no formal position as to whether such decisions need to be incorporated into the rules.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM Gregg Schochenmaier represented IPERS.

ARC 3594B No action on amendments relating to contribution rates and retirement calculations for sheriffs, deputy sheriffs and airport firefighters.

PUBLIC SAFETY DEPARTMENT Mike Coveyou represented the department.

ARC 3586B No action on chs 400 to 404 regarding the peace officers' retirement, accident and disability system. Discussion pertained to payment during periods of temporary incapacity without use of sick leave and compensation for unused sick leave upon retirement.

IOWA FINANCE AUTHORITY Loyd Ogle and Donna Davis represented the authority. James Conlin of Conlin Properties was also present.

ARC 3620B Proposed amendments to ch 3 expand the types of loans and range of eligible borrowers for the multifamily loan program. Davis reported that to date no comments have been received. Noting the availability of private sector financing, Conlin distributed materials and voiced concerns about IFA's underwriting and operating procedures. In response, Ogle stated that IFA's public purpose is to make loans that could not be financed through the private sector. Lundby requested information about the status of projects undertaken subsequent to the market study requirement. Discussion related to market study results, housing needs throughout Iowa, and the potential for increased vacancy rates in private sector housing.

Committee business Chair Eichhorn welcomed Deputy Attorney General Julie Pottorff, who is representing the office of the administrative rules coordinator, and congratulated Representative Geri Huser for passing the bar examination. Minutes of the August 2004 meeting were approved. The next meeting was set for October 12, 2004. There was discussion about the collection and use of fees by state agencies. The committee approved publication in the Bulletin notices from the departments of public safety regarding approved breathalyzer devices and natural resources regarding the state drinking water revolving fund.

UTILITIES DIVISION Cecil Wright and Mary Whitman represented the division.

ARC 3592B No action on proposed amendments to the pipeline and electric line rules.

ARC 3593B No questions on amendments to chs 19 and 20 concerning second payment agreements.

NATURAL RESOURCE COMMISSION Steve Dermand, Jon Tack, Terry Little, Marion Conover, John Phoenix, and Kim Bogenschutz represented the commission.

ARC 3626B No questions on amendments related to registration of boats, all-terrain vehicles and snowmobiles.

ARC 3628B No questions on the no anchoring areas on Lake Red Rock.

ARC 3629B No questions on amendments to ch 40 concerning Green Island and Lake Odessa State Wildlife Areas.

ARC 3623B No action on proposed 51.11 to restrict camping at state wildlife areas.

ARC 3625B No action on the amendment to ch 52 prohibiting trespass on the Middle River and Black Hawk Bottoms Wildlife Areas.

ARC 3622B No action on proposed amendments to ch 81, state fishing regulations.

ARC 3627B No questions on proposed ch 90 regarding aquatic invasive species.

ARC 3624B No action on waterfowl and coot hunting seasons.

ARC 3621B No questions on proposed amendments to ch 98 regarding wild turkey spring hunting.

ARC 3630B No questions on licensing requirement for adults accompanying youth during special educational youth deer hunts at state parks or recreation areas.

ENVIRONMENTAL PROTECTION COMMISSION Wayne Gieselman, Tim McGraw, Brian Bunton, and Sean Fitzsimmons represented the commission. Other interested parties included Chris Gruenhagen of Iowa Farm Bureau, Stacey Noe of the Iowa Dairy Association, Rich Leopold of the Iowa Environmental Council, and several representatives of Iowa Citizens for Community Improvement.

ARC 3588B Eichhorn announced that a subcommittee comprised of Senators Redfern and Kibbie and Representatives Heaton, Frevert and Eichhorn will meet with the department after the election and prior to the next legislative session to gather further information related to these rules.

Gieselman related the background that lead to adoption of the rules: In February of 2001 the department received a petition signed by over 7,000 people asking for air quality standards for hydrogen sulfide, ammonia and odors; the governor subsequently asked the state universities to conduct a study dealing with emissions from livestock facilities; based on the study, the department adopted ambient air standards for hydrogen sulfide and ammonia from any source; those rules were nullified by the general assembly and the department was instructed to address only emissions from livestock facilities and to determine a level commonly known to cause verifiable and adverse health effects; the department proposed a standard of 15 ppb for hydrogen sulfide only and finally adopted a standard of 30 ppb. Gieselman stated that the rules establish a threshold but impose no requirements and have no economic impact on the livestock industry. Gieselman emphasized that the standard is moderate and is based on scientific evidence.

Discussion related to the severity of the health effects of exposure to 30 ppb and whether establishment of the 30 ppb threshold might subject other industries that emit hydrogen sulfide to litigation.

Members of Iowa Citizens for Community Improvement and the Iowa Environmental Council expressed support for the rules as a step in the right direction and expressed a desire for an ammonia standard. Written comments in opposition were submitted by the Iowa Farm Bureau.

ARC 3589B No questions on amendments to ch 118 regarding discarded appliance demanufacturing.

ARC 3587B No action on ch 122 concerning cathode ray tube device recycling.

ARC 3590B No action on rescission of chs 215 to 217 relating to waste tire management.

Adjourned The meeting was adjourned at 2:25 p.m.

Respectfully submitted,

Kathleen K. Bates

APPROVED:

Chair George Eichhorn

Vice Chair Paul McKinley