

**MINUTES OF THE FEBRUARY 2009 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, February 6, 2009, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senators Merlin Bartz, Thomas Courtney, Wally Horn, John P. Kibbie, and James Seymour; Representatives Marcella Frevert, David Heaton, Tyler Olson, Nathan Reichert, and Linda Upmeyer were present.
- Also present: Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; fiscal staff; caucus staff; and other interested parties.
- Convened Sen. Horn convened the meeting at 9:02 a.m.
- Election Sen. Kibbie made a motion that Sen. Wally Horn serve as Chair and Rep. Marcella Frevert serve as Vice Chair until April 30, 2009. The motion was seconded, and Sen. Horn and Rep. Frevert were elected.
- Fiscal overview** Sue Lerdal presented the LSA fiscal report.
- ADMINISTRATIVE SERVICES DEPARTMENT** Debbie O’Leary and Patricia Lantz represented the department. Other interested parties included Brice Oakley on behalf of three information technology vendors.
- ARC 7509B No action on ch 108 concerning contractual limitations of vendor liability provisions. Ms. O’Leary reviewed the background for the rules, identified changes made in response to requests from the vendor community, and confirmed that she believes the interests of the state remain protected. Mr. Oakley commented on the successful process, commended the department’s efforts, and expressed the view that the rules place Iowa in a better position to attract competitive bids.
- ACCOUNTANCY EXAMINING BOARD** Pam Griebel represented the board. Other interested parties included Keith Luchtel on behalf of the Iowa Society of CPAs.
- ARC 7484B Ms. Griebel commented on the collaborative effort that went into the revision of the board’s rules and summarized the changes included in proposed chs 1 to 21. Mr. Luchtel expressed the society’s support for the rules.
- EDUCATION DEPARTMENT** Carol Greta represented the department. Other interested parties included Matt Carver of School Administrators of Iowa, Randy Yontz of the American Heart Association, Ken Daley of Iowa Fit for Life, Justin LaVan of Network of Iowa Christian Home Educators, Ed Dickerson on behalf of Homeschool Alliance for Iowa Learners, Andrea Farrier of Iowa Home School Assistance Program Professionals.
- ARC 7504B Proposed amendments to ch 12 incorporate requirements for physical activity and CPR as directed by the Healthy Kids Act. In response to a question posed by Sen. Courtney, Ms. Greta indicated that the state board is concerned about the burden that will be imposed on schools and explained that because the requirement is included in Iowa Code chapter 256, the accreditation chapter, schools will have to keep records to demonstrate that each student has completed the required physical activity. Sen. Bartz was advised that the legislation did not originate with the education committee; it was included in the standing bill. Sen. Kibbie stated that he will ask the education committee to revisit the legislation. Mr. Carver voiced concern that excessive paperwork will affect the ability of schools to meet the needs of at-risk students. Mr. Yontz commented that the American Heart Association supports the intent of the legislation, to increase children’s physical activity. Mr. Daley expressed support for 60 to 90 minutes of physical activity per day.
- ARC 7502B Amendments to ch 31 pertain to competent private instruction. Ms. Greta reported that the department worked with affected parties who were concerned about the form, resources, and licensure. Mr. LaVan, Ms. Farrier and Mr. Dickerson expressed appreciation to Ms. Greta and the department for responding to their concerns.

Education Department (continued)

- ARC 7503B Proposed amendments to ch 58 stipulate nutritional content standards. Ms. Greta clarified that the rules do not regulate the federal school breakfast and lunch programs, food and beverages provided at concession stands, food and beverages sold as occasional fundraisers at the school, food and beverages in staff lounges, or food and beverages brought in by parents, students or staff. The rules do regulate food and beverages sold in vending machines, food and beverages sold on a regular basis, for example, in school stores, and a la carte items that are not part of the federal school breakfast and lunch programs. Ms. Greta commented that the task force believes the rules are too lax; school personnel say the rules are too strict.
- ARC 7489B No action on proposed amendments to ch 83, teacher quality program, in conformance with statutory changes.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Melanie Johnson and Dick Vegors represented the department.

- ARC 7506B No action on amendments to chs 311 to 314 concerning the renewable fuel infrastructure program.

IOWA FINANCE AUTHORITY Mark Thompson and Lori Beary represented the authority.

- ARC 7511B No action on ch 30, qualified Midwestern disaster area bond allocation. Ms. Beary clarified that businesses in disaster areas can apply to the authority for these tax-exempt bonds, which can be sold to banks or remarketing agents.
- ARC 7513B No questions on ch 31, council on homelessness.

PROFESSIONAL LICENSURE DIVISION Judy Manning and Bobbi O'Rourke represented the behavioral science board of the division. Other interested parties included Deanna Triplett and David Adelman on behalf of the Iowa Behavioral Health Association. Several members of the behavioral science board were also present.

- ARC 7476B Amendments to chs 31 to 33 increase licensure requirements for marital and family therapists and mental health counselors. Ms. O'Rourke commented that Iowa's requirements for academic hours of preparation and postgraduate supervised hours for counselors in training are the lowest in the nation, and these amendments are intended to align Iowa's requirements with national standards. Ms. Triplett commented that there is already a shortage of health care professionals, and the increased hours required by these rules would have an adverse effect on access to health care. Ms. Triplett indicated support for items 10 to 17, but requested a 70-day delay on the increased educational requirements.

- Motion to delay Sen. Bartz moved a 70-day delay on the educational requirements.
- Motion carried The motion carried; the February 18, 2009, effective date was delayed for 70 days.

PUBLIC HEALTH DEPARTMENT Barb Nervig, Carmily Stone and Ken Sharp represented the department. Other interested parties included Shannon Strickler of the Iowa Hospital Association.

- ARC 7530B No action on proposed ch 22, which includes revised rules pertaining to the practice of tattooing. Ms. Nervig distributed a copy with striking and underscoring to illustrate differences from the existing rules. Rep. Upmeyer questioned the prohibition against operating the business out of a residence and hoped that this would not serve as a precedent for other types of businesses. Sen. Bartz suggested a clarification in provisions regarding controlled substances.

- ARC 7516B Ch 28 implements fees for plumbing and mechanical systems licensure. Ms. Nervig reported that the fee structure will be reviewed every two years to ensure that fees are appropriate to cover the cost of the program.

- Motion to object Rep. Frevert moved an Objection on 28.1(2)“d” and 28.1(3)“d” concerning fees for combined licenses.

- Motion carried The motion carried on a voice vote.

- Motion to object Sen. Bartz moved an Objection on 28.1(10), which imposes a \$25 surcharge for paper applications.

- Motion carried The motion carried on a vote of six to four.

Ayes: Sen. Horn, Rep. Frevert, Sen. Bartz, Sen. Courtney, Rep. Heaton, and Rep. Upmeyer.

Nays: Sen. Kibbie, Rep. Olson, Rep. Reichert, and Sen. Seymour.

Public Health Department (continued)

- ARC 7517B Ch 29 provides procedures for application, licensure, and examination of plumbing and mechanical systems professionals. Ms. Nervig reported that in response to comments received, the board revised the definition of "routine maintenance." Ms. Strickler commented that currently this chapter does not apply to hospitals; but if pending legislation includes hospitals, the association would find the definition of "routine maintenance" to be overly restrictive. Mr. Sharp indicated that the board is working with the hospital association in the legislative process; Rep. Frevert encouraged communications to also include the department of public safety.
- ARC 7538B No questions on proposed ch 37, breast and cervical cancer early detection program.
- ARC 7540B No action on proposed ch 194 regarding nonpayment of state debt.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Carol Stratemeyer represented DHS.

- ARC 7480B No action on amendments to chs 7, 40, 41, and 46. These amendments provide for semiannual reporting and an annual interview for FIP recipients.
- ARC 7491B Ms. Freudenberg outlined amendments adopted from two Notices of Intended Action, for which no comments were received, but clarifying revisions were made. The mileage reimbursement rate for PROMISE JOBS recipients was increased though TANF block grant assistance.
- ARC 7526B No questions on amendments pertaining to family-centered child welfare services and contracting for foster group care services.
- ARC 7481B No questions on amendments to include a new Medicaid provider category, occupational therapists in independent practice.
- ARC 7483B An amendment to 78.13(5) increases the Medicaid mileage reimbursement rate for nonemergency medical transportation by car. Sen. Bartz questioned the logic of the department's basing the reimbursement rate on the cost of gasoline and suggested a more appropriate basis would be a percentage of the approved federal mileage reimbursement rate. Rep. Upmeyer voiced concern about the budgetary consequences of the department's action.

ENVIRONMENTAL PROTECTION COMMISSION Jon Tack and Alex Moon represented the commission. Other interested parties included Larry McLellan on behalf of certain municipal solid waste agencies, Sara Bixby of South Central Iowa Solid Waste Agency, and Cindy Turkle of Turkle-Clark Environmental Consulting.

- ARC 7474B Mr. Moon reported progress made since the last meeting and distributed a report on the status of affected landfills. Rep. Frevert expressed appreciation to Mr. Moon and Mr. Tack for their efforts to find solutions for the landfills. Mr. McLellan commented that he does not believe that the amendments have cured the grounds for the Objection that the committee imposed on the previous version of the rules and asked the committee to reinstate the Objection to the rules. Rep. Olson commented on the legal effect of an Objection and its significance on the burden of proof in a lawsuit. Ms. Bixby urged the committee to take no action. Ms. Turkle asserted that monitoring standards exceed federal requirements.

Motion to object Rep. Heaton moved the Objection.
 Motion carried The motion carried on a vote of six to four.
 Ayes: Sen. Bartz, Sen. Courtney, Rep. Heaton, Rep. Reichert, Sen. Seymour, Rep. Upmeyer.
 Nays: Sen. Horn, Rep. Frevert, Sen. Kibbie, Rep. Olson.

Committee business The minutes of the January 2009 meeting were approved.
 The next meeting was scheduled for March 6, 2009.

Adjourned The meeting was adjourned at 12:55 p.m.
 Respectfully submitted,

 Kathleen K. West

APPROVED:

 Chair Wally Horn

 Vice Chair Marcella Frevert