

**MINUTES OF THE SEPTEMBER 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 Tuesday, September 8, 2009, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa.

Members present: Representative Marcella Frevert, Chair, and Senator Wally Horn, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives 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 Rep. Frevert convened the meeting at 9 a.m.

Fiscal overview Sue Lerdal presented the LSA fiscal report.

PUBLIC SAFETY DEPARTMENT Mike Coveyou represented the department.

ARC 7977B Mr. Coveyou reported that subsequent to the publication of ARC 7977B, which was reviewed at the August 2009 ARRC meeting, the department submitted an amendment to allow dispensing of B-5 and the dispensing of higher blends (B-6 to B-20) if the manufacturer of the dispensing equipment states that the dispenser is compatible with the higher blends.

BANKING DIVISION Rod Reed and Shauna Shields represented the division.

ARC 8067B No action on proposed 15.6 regarding regulated loans.

ARC 8068B No action on proposed 16.13 regarding industrial loans.

ARC 8066B No action on proposed amendments to ch 18 concerning mortgage bankers and brokers.

ARC 8065B No action on proposed ch 19, mortgage loan originators.

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

ARC 8078B No action on 3.5(1)“k,” in regard to the authority’s discretion to waive the local match requirement.

ARC 8071B No questions on proposed 12.1 and 12.2 concerning the qualified allocation plan for low-income housing tax credits.

ARC 8072B No questions on termination of the notice to amend the state housing trust fund.

ARC 8073B No questions on 19.1, the updated allocation plans for the local housing trust fund and project-based housing programs.

ARC 8079B No action on amendments to provide an extension of the three-year period for planning and design loans from the state revolving fund for clean water projects.

ARC 8074B No questions on amendments to ch 29 to implement the jump-start housing assistance program. (These amendments were published under notice of intended action and adopted and filed emergency in the July 1, 2009, IAB.)

ARC 8075B No questions on amendments to ch 29 to implement the jump-start housing assistance program. (These amendments were published under notice of intended action and adopted and filed emergency in the June 17, 2009, IAB.)

ARC 8080B The water quality financial assistance program, ch 33, has allocated \$35 million for communities with a population under 10,000 and \$20 million for larger communities. Ms. Beary stated that these funds are available for both drinking water projects and wastewater projects. Discussion related to the various sources of funding available: federal stimulus moneys in the state revolving fund, CDBG federal stimulus and disaster funds, and USDA federal stimulus and disaster funds. Ms. Beary clarified that for rural water districts and unincorporated areas, the population of the area served by the project would determine the size of the “community.”

ARC 8076B No action on the affordable housing assistance grant fund, ch 35.

ARC 8077B No action on ch 36, public service shelter grant fund.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Kim Bentley, Gail Kotval, and Alaina Santizo represented the department.

- ARC 8032B No action on proposed amendments to ch 103, information technology training program. Ms. Bentley clarified the limitation on software costs for the training program.
- ARC 8031B No action on proposed amendments to rescind ch 110 and amend ch 111, supply chain development program.
- ARC 8030B Proposed amendments to ch 112, management talent recruitment program, allow for both in-state and out-of-state recruitment.
- ARC 8034B Discussion on ch 211, the community attraction and tourism development programs, related to waiver of the local match for projects located in recent disaster areas and extensions of project time lines. Rep. Heaton suggested that that the words “including but not limited to” be deleted, so that good cause would be limited to disaster areas. Rep. Olson confirmed that the legislation was intended to apply to disaster areas. Committee members asked that Ms. Santizo report at the October meeting to advise the committee about the board’s decision regarding the committee’s requested change.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

- ARC 8041B No questions on proposed 85.48 regarding labeling of biodiesel fuel and ethanol-blended gasoline.

EDUCATION DEPARTMENT Carol Greta represented the department. Other interested parties included Andrea Farrier on behalf of Iowa HSAP Professionals, Robin Taylor of Eddyville-Blakesburg HSAP, Donna Stinson of Des Moines Public Schools HSAP, Kathleen Suiter of Marion HSAP, and Jill Watson of Davis County HSAP.

- ARC 8050B No action on proposed amendments to ch 41 regarding special education. Ms. Greta indicated that the amendments conform to changes in federal regulations. Ms. Greta clarified provisions regarding requests for destruction of records after a specified period of time and advised Rep. Heaton that such requests are limited to records of special education students.
- ARC 8052B No action on proposed 59.1 to 59.8 regarding gifted and talented programs.
- ARC 8051B No action on proposed amendments to ch 60 regarding students with limited English proficiency (LEP). Ms. Greta advised Sen. Bartz that there is no additional LEP funding for students who remain in high school for more than four years.
- ARC 8053B No action on amendments to ch 79 concerning practitioner and administrator preparation programs. Provisions are added to provide for the preparation of noneducators who work in the schools, such as social workers, school psychologists, and guidance counselors.
- ARC 8048B No action on proposed amendments to ch 96 concerning the statewide local option sales and services tax for school infrastructure. The school budget review committee requested a change in regard to projected enrollment for issuance of a certificate of need.
- ARC 8054B Ch 98 pertains to financial management of categorical funding. Ms. Farrier expressed concern that the rules regarding HSAP funding are similar to those for supplemental funding, rather than those for funding a public school program and that costs would not be reimbursed under these rules. Ms. Taylor expressed opposition to limitation of funding to salaries and benefits. Ms. Suiter commented that these rules would be detrimental to home school assistance programs. Ms. Stinson concurred with comments and concerns expressed by the previous speakers. Ms. Watson asked that districts be allowed to determine appropriate and inappropriate uses of funding. Discussion pertained to activities and services provided by HSAPs beyond supervision. In response to concerns expressed, Ms. Greta explained that HSAPs provide instructional supervision to home schooled students and clarified that home schooled students are not public school students.
- On another matter, Sen. Bartz questioned rule 98.112, the equalization levy fund, which was not included in the Notice of Intended Action.

Education Department (continued)

- Motion to delay Rep. Upmeyer made a motion to delay for 70 days the September 30, 2009, effective date of rules 98.12 and 98.112.
- Motion carried On a 9 to 1 roll-call vote the motion to delay passed. (Aye: Rep. Frevert, Sen. Horn, Sen. Bartz, Rep. Heaton, Sen. Kibbie, Rep. Olson, Rep. Reichert, Sen. Seymour, Rep. Upmeyer; Nay: Sen. Courtney)
- ARC 8049B No questions on the proposed rescission of ch 100, vision Iowa school infrastructure program.

INSPECTIONS AND APPEALS DEPARTMENT Deborah Svec-Carstens represented the department. Kelly Meyers represented IHCA/ICAL; Shelly Chandler represented the Iowa Association of Community Providers.

- ARC 8047B Proposed ch 66 pertains to boarding homes. Ms. Svec-Carstens reported that in consultation with the department of human services, the department of public safety, the department on aging, the dependent adult task force, and the chairs of the oversight committee, the department has proposed rules to implement SF 484. Ms. Meyers asked that the department maintain on its Web site a list of registered boarding homes. Ms. Chandler expressed general support for the rules, but concern about the increased number of audits that community providers have recently experienced.

ENVIRONMENTAL PROTECTION COMMISSION Adam Schneiders, Lori McDaniel, and Jon Tack represented the EPC. Other interested parties included Emily Piper of the Iowa Rural Water Association and Jessica Harder of the League of Cities.

- ARC 8038B This amended notice on Iowa's antidegradation implementation procedure pertains to the listing of outstanding Iowa waters. Discussion related to the criteria for classifications. Sen. Bartz suggested that "important social or economic development" be defined and questioned whether the rules might be in conflict with the intent of Iowa Code section 466.1.
- Motion Rep. Upmeyer made a motion that the committee request a formal regulatory analysis on ARC 8038B.
- Motion carried On a voice vote the motion passed.
- Ms. Harder and Ms. Piper commented that "Tier 2½" outstanding Iowa waters are held to the same discharge restrictions as the nation's outstanding waters classified as Tier 3. Ms. Piper stated that it will be difficult to know the impact on regulated entities until the final regulatory document is adopted. Ms. Harder noted that waters listed as outstanding Iowa waters have not been through the nomination process.
- ARC 8039B No questions on revisions to the surface water classifications, 61.3(5).
- ARC 8037B Amendments to ch 101, solid waste comprehensive planning requirements, pertain to construction and demolition waste. Mr. Tack explained that there is a statutory exemption from the tonnage fee for construction and demolition (C&D) landfills; these amendments bring the rules into conformance with statute by removing an exemption that was in the rules for C&D waste disposed of at municipal landfills. Discussion pertained to the C&D exemption.
- Motion to refer Sen. Kibbie moved a referral to the general assembly.
- Motion carried The exemption for construction and demolition landfills was referred.
- Rep Frevert commended the department for its work in resolving issues related to liner requirements at landfills.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department. Kelly Meyers represented IHCA/ICAL.

- ARC 8083B No action on proposed amendments regarding presumptive Medicaid eligibility for children.
- ARC 8086B Ms. Freudenberg commented that the industry was involved in these proposed amendments affecting nursing facility quality assurance assessment and payments. Ms. Meyers expressed the association's support for the amendments.
- ARC 8064B No questions on proposed amendments to ch 47 to eliminate the FIP diversion program.

Human Services Department (continued)

- ARC 8056B No action on proposed amendments to increase resource limits for Medicaid's Medicare savings program.
- ARC 8040B No action on proposed expansion of Medicaid assistance to children with disabilities.
- ARC 8084B No questions on the amendment to ch 79 regarding billing for time-related services.
- ARC 8059B No questions on proposed 79.7 regarding the medical assistance advisory council.

SECRETARY OF STATE Sarah Reisetter represented the office of the secretary of state.

- ARC 8045B No questions on amendments to ch 21, election forms and instructions.

TRANSPORTATION DEPARTMENT Mitch Dillavou and Mark Lowe represented the department.

- ARC 8026B No action on ch 162, bridge safety fund. The \$50 million appropriation will cover 55 projects.
- ARC 8024B The amendment to 620.3(6) provides for issuance of a temporary restricted license to a repeat OWI offender.

Committee business The minutes of the August 2009 meeting were approved.
The next meeting was scheduled for Tuesday, October 13, 2009.

Adjourned The meeting was adjourned at 1:35 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Marcella Frevert

Vice Chair Wally Horn