

**MINUTES OF THE DECEMBER 2016 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, December 13, 2016, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Mark Costello and Pam Jochum; Representatives Lisa Heddens, Megan Jones, Rick Olson, and Guy Vander Linden were present. Senators Mark Chelgren and Thomas Courtney were not present.
- Also present: Jack Ewing and Tim Reilly, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Colin Smith, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.
- Convened Sen. Horn convened the meeting at 9:05 a.m.
- Fiscal overview** Christin Mechler presented the LSA fiscal report.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.

**Committee review of emergency rule making** Ms. Freudenberg presented to the committee a rule making that is permitted to be filed emergency after committee review pursuant to 2016 Iowa Acts, House File 2460, section 12. Ms. Freudenberg explained that the rule making, which amends chs 51 and 52, will implement cost-of-living adjustment (COLA) increases to the income limits and benefit amounts for several state supplementary assistance (SSA) categories. There were no questions concerning the rule making.

- ARC 2812C No action on amendments to chs 40, 41 and 46, regarding the family investment program (FIP), that pertain to the use of an electronic access card to access benefits at a prohibited location.
- ARC 2813C No action on amendments to ch 99 concerning child support establishment and suspension.
- ARC 2816C No action on amendments to ch 22 pertaining to the autism support program.
- ARC 2824C No questions on proposed amendments to chs 77 to 79 pertaining to reimbursement for drugs and to Indian health facility services.

**ADMINISTRATIVE SERVICES DEPARTMENT** Tami Wiencek and Dave Heuton represented the department.

- ARC 2794C A proposed amendment to 57.6(3) pertains to internship appointments. Ms. Wiencek explained that the amendment changes the length of a completed internship appointment from 90 calendar days to 480 hours. In response to a question from Sen. Horn, Mr. Heuton stated that the change is favorable and clarifies the length of time required for an internship.

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Margaret Thomson represented the department.

- ARC 2803C A proposed amendment to 76.2 pertains to the adoption by reference of federal regulations related to the retention of the state meat and poultry program. In response to a question from Sen. Horn, Ms. Thomson stated that the federal regulations would apply to in-state meat and poultry and to meat and poultry brought into Iowa from out of state.
- ARC 2807C No questions on a proposed amendment to 45.1 to adopt a definition of “sensitive crop registry.”

**INSURANCE DIVISION** Dennis Britson represented the division.

- ARC 2810C No action on the rescission of ch 140 and the adoption of ch 101, which pertain to burial sites and cemeteries.
- ARC 2826C No action on the rescission of ch 24 and the adoption of ch 102, which concern Iowa retirement facilities.

**INTERIOR DESIGN EXAMINING BOARD** Lori SchraderBachar represented the board.

ARC 2796C Proposed amendments to chs 2 and 3 and the rescission of ch 8 pertain to registration; continuing education; and renewal and reinstatement.

In response to an inquiry from Rep. Olson, Ms. SchraderBachar stated that because Iowa Code chapter 544C is a title act, not a practice act, a person who does not hold a certificate of registration may practice interior design in Iowa and that approximately 52 persons hold certificates of registration in Iowa. In response to questions from Rep. Pettengill, Ms. SchraderBachar explained that to be a member of the International Interior Design Association, an interior designer, whether registered or unregistered, must take the National Council for Interior Design Qualification (NCIDQ) examination and complete required continuing education. In response to questions from Sen. Jochum, Ms. SchraderBachar stated that because no licensing body in Iowa grants licensure in interior design, interior designers who meet the requirements of the International Interior Design Association may be referred to as registered interior designers. In addition, Ms. SchraderBachar stated that the total number of interior designers in Iowa is unknown.

ARC 2797C Proposed amendments to chs 1 and 5 to 7 concern a description of board organization; disciplinary authority; investigations and proceedings; and grounds for discipline. In response to questions from Rep. Pettengill, Ms. SchraderBachar explained that the number of board members on the disciplinary committee was reduced to be less than a quorum of the board; that no public complaints had been received or disciplinary actions taken by the board since the establishment of the board but that future complaints might pertain to continuing education or professional conduct; and that the board had decided to meet three times per year.

**UTILITIES DIVISION** Cecil Wright and Mary Whitman represented the division.

ARC 2815C Proposed amendments to ch 25 pertain to the electrical safety code.

In response to a question from Rep. Vander Linden, Ms. Whitman stated that the electrical safety code is adopted by reference in ch 25. Regarding adoption by reference, Rep. Vander Linden expressed concern about the availability of and access by the public to the electrical safety code and exceptions to the code. In response, Mr. Wright explained that the utilities board is required to have copies of the electrical safety code available for use by the public. Mr. Ewing added that Iowa Code section 17A.6 requires that codes adopted by reference be available in the state law library. In response to a question from Sen. Horn, Mr. Wright stated that the rights of the publishers of such codes sometimes do not allow for reproduction and that he would research whether the publishers of the electrical safety code would allow the code to be placed online.

Rep. Vander Linden stated that such codes should not be adopted by reference unless they are made accessible to the public. Rep. Jones questioned the practicality of some of the requirements of the national building code.

**IOWA FINANCE AUTHORITY** Mark Thompson represented the authority.

ARC 2828C No questions on the proposed rescission of 4.5 regarding public hearing and approval for general revenue bond procedures.

**RACING AND GAMING COMMISSION** Brian Ohorilko represented the commission.

ARC 2795C No action on amendments to 5.4(10) regarding calculation of adjusted gross receipts.

ARC 2801C Proposed amendments to chs 1, 4 to 6, and 10 to 12 pertain to persons subject to gaming board authority; partnerships; grounds for sanction; horse racing; gambling games; and accounting and cash control. In response to questions from Rep. Pettengill, Mr. Ohorilko stated that regarding Item 4, counter checks will be accepted. Regarding Item 11, he explained that the purpose for an “in-today” sign outside the stall of a horse scheduled to race on that day is twofold: to enable the veterinarian to identify every horse scheduled to race and to assist security personnel in determining the reason for which anyone other than the veterinarian is present in the horse’s stall. Sen. Horn commented on the increase in rules regarding racing and gaming.

**CITY FINANCE COMMITTEE** Ted Nellesen represented the committee.

ARC 2811C No action on amendments to 2.5(5) concerning a change in calculating a surplus balance in city utility and enterprise funds.

In response to an inquiry from Rep. Pettengill, Mr. Nellesen stated that the committee deals primarily with budgeting and does not have the authority to make changes to actuarial forecasting. At Rep. Pettengill's request, Mr. Nellesen offered to discuss actuarial-related concerns with a representative of the City of Waterloo.

**PUBLIC EMPLOYMENT RELATIONS BOARD** Diana Machir and Jan Berry represented the board.

ARC 2817C No questions on proposed amendments to chs 8, 9 and 11 pertaining to employee organizations, administrative remedies and state employee appeals.

**PUBLIC HEALTH DEPARTMENT** Susan Dixon, Kim Piper and Melissa Bird represented the department.

ARC 2814C No questions on proposed amendments to ch 1 regarding reporting of communicable and infectious diseases, poisonings, and conditions.

ARC 2819C Proposed amendments to 4.3 and 4.11 pertain to the Iowa newborn screening program. In response to questions from Rep. Jones, Ms. Piper explained that the department will store residual newborn screening specimens for five years and only use the specimens for Iowa newborn screening program (INSP) purposes and that the department will discontinue the practice of storing and releasing specimens for external research use with informed consent from a parent or guardian and instead require that an investigator of proposed research obtain informed consent from the parent or guardian for the release of a newborn's specimens. Rep. Jones stated that the proposed policy regarding storing specimens for INSP purposes and not for research except for the acquisition of informed consent by the investigator of proposed research may be misleading.

ARC 2820C No questions on proposed amendments to ch 11 concerning human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS).

ARC 2821C Proposed amendments to 95.2, 95.7 and 95.10 pertain to vital records.

In response to questions from Reps. Pettengill and Jones and Sens. Costello and Horn, Ms. Bird described how a county recorder may assist customers, including answering questions by telephone and through U.S. mail that the recorder considers appropriate; addressed privacy concerns; explained that to receive an uncertified copy of a document, a requester is not required to prove identity or entitlement to the document but is required to do so for a certified copy; clarified that a certified copy cannot be requested by telephone and that each county sets its own cost for an uncertified copy at no more than \$5; described the new security paper used for certified copies; and explained that counties may determine policy about how to process requests, including in-person requests.

Rep. Jones commended the department for developing and using new security paper for certified copies.

ARC 2822C No questions on proposed amendments to ch 186 relating to the governmental public health advisory council.

**PHARMACY BOARD** Sue Mears and Andrew Funk represented the board.

ARC 2827C No action on amendments to ch 8 pertaining to universal practice standards related to opioid antagonists and epinephrine auto-injectors.

**REVENUE DEPARTMENT** Alana Stamas and Victoria Daniels represented the department.

ARC 2806C No questions on proposed amendments to chs 42 and 52 pertaining to the historic preservation and cultural and entertainment district tax credit.

ARC 2825C No questions on proposed amendments to ch 8 regarding forms and communications.

ARC 2829C No action on amendments to chs 42, 52 and 58 pertaining to the calculation of the alternative minimum tax (AMT) credit.

**TREASURER OF STATE** Adam Phillips represented the treasurer of state.

ARC 2809C No action on ch 9, unclaimed property.

**WORKFORCE DEVELOPMENT DEPARTMENT** Emily Chafa represented the department.

ARC 2823C No questions on proposed amendments to ch 26 pertaining to unemployment appeal hearings.

**REGENTS BOARD** Aimee Claeys and Andrea Anania and Scott Arneson (by teleconference) represented the board.

ARC 2818C A proposed amendment to 1.7 pertains to the application fee for the Iowa dental advanced standing program (for international DDS students) at the University of Iowa. Ms. Claeys summarized the purpose of and requirements for the participants in the program.

In response to an inquiry from Sen. Horn, Ms. Claeys stated that the University of Iowa, with the approval of the board of regents, has established the program, which is similar to programs established by other institutions of higher education, and that the rule making is focused on the application fee, which will be used to offset the costs of applicant evaluation. In addition, Ms. Claeys stated that the application fee is part of the application process and that payment of the application fee does not give international students priority consideration. Sen. Horn suggested that preference be given to students from Iowa.

Mr. Ewing stated that in the future, he will request preapproval from the committee for participation of agency representatives by teleconference.

**EDUCATIONAL EXAMINERS BOARD** Phil Wise and Joanne Tubbs represented the board.

ARC 2792C No action on amendments to 13.7 pertaining to evidence of successful teaching experience for a standard teaching license.

ARC 2793C Amendments to chs 13 and 22 concern a transitional authorization and certificate of CPR training relating to coaching. Ms. Tubbs stated that during the period for public comment, the Iowa chapter of the American Heart Association, the Iowa Athletic Trainers Society and the Iowa Medical Society expressed support for the addition of CPR training to the requirements for new and renewed coaching endorsements and authorizations.

Discussion pertained to 2016 legislation that established the transitional coaching authorization but did not include a requirement for CPR training and to the addition of CPR training to existing coaching endorsements and authorizations without specific statutory authority. Sens. Jochum and Horn and Reps. Olson, Jones and Pettengill expressed support for the CPR training requirement but questioned whether the board’s addition of the requirement to existing coaching endorsements and authorizations through administrative rule is appropriate without specific statutory authority when the legislation establishing the transitional coaching authorization did not include the CPR training requirement. In response, Ms. Tubbs explained that the transitional coaching authorization is intended to allow more expedient hiring of coaches and that the addition of a CPR training requirement would have caused further hiring delays. She explained that the board has the authority to establish requirements for coursework for existing coaching endorsements and authorizations, including CPR training, and that the board does not see a conflict between the 2016 legislation and the adopted amendments.

Motion to delay Rep. Olson moved a session delay on 13.28(29)“b”(6), 22.1(2)“a”(7), and 22.1(4)“a”(4).

Motion carried On a voice vote, the motion carried.

**ENVIRONMENTAL PROTECTION COMMISSION** Christine Paulson, Jim McGraw and Kelly Book represented the commission.

ARC 2799C Proposed amendments to chs 20 to 23, 25 to 28, 31 and 33 pertain to air quality. In response to questions from Rep. Vander Linden, Ms. Paulson stated that none of the amendments affect fees related to air quality. Mr. McGraw added that at this time, the department is working on its 2018 budget but is not planning any rule making related to raising fees. He explained that the Title V emissions fee, which is capped at \$70 per ton, would be the only fee that would require rule making in order to be increased. Mr. McGraw also explained the budget analysis process, including an estimated reduction in emissions from the current 121,000 tons to between 94,000 and 100,000 tons.

## Environmental Protection Commission (continued)

Rep. Vander Linden encouraged the department to perform a detailed, exhaustive analysis of expenses versus revenue and stated that if the goal of reducing emissions is being accomplished, the department should reduce expenses.

ARC 2798C

No action on amendments to ch 65 pertaining to animal feeding operations. Sen. Costello stated that he prefers that the rescission of existing language and the adoption of new language in lieu thereof be shown with strike-through and underscore.

**NATURAL RESOURCE COMMISSION** Bruce Trautman and Martin Konrad represented the commission. Other interested parties included Neila Seaman on behalf of the Sierra Club, Mike Delaney on behalf of the Isaac Walton League and the Raccoon River Watershed Association, and Jim Obradovich on behalf of the Iowa Trappers Association.

ARC 2802C

Proposed amendments to ch 86 pertain to turtle harvesting. Mr. Trautman summarized the amendments, which include commercial and recreational seasons, daily catch limits and a five-year study to determine the impact of seasons on wild turtle populations. According to Mr. Trautman, the amendments implement the goals of the 2016 legislation: to protect species of wild turtles for future generations and to allow for the commercial harvest of wild turtles.

Discussion pertained to a review of recent statistics related to turtle harvesting, the department's response to public comment and hearings, the effects of the amendments on commercial turtle harvesters, turtle harvesting in surrounding states, and the difference between turtles and tortoises. In response, Mr. Trautman stated that based on statistics from 2015 as reported to the department by licensed turtle harvesters, 101 licensed harvesters caught 10,210 wild turtles with a wholesale value of \$53,845. He stated that there had been approximately equal representation of commercial harvesters and recreational harvesters at the public hearings. He agreed that the presence of conservation officers for security at public hearings should not be perceived as intimidation by attendees and that the department will review the effect of the presence of law enforcement at public hearings. Mr. Trautman stated that most of the surrounding states have closed the commercial harvest of turtles. Mr. Konrad stated that in general, turtles are aquatic and terrestrial, whereas tortoises are terrestrial, and that there are no tortoises in Iowa.

Ms. Seaman expressed support for the daily catch and possession limits, the prohibition on culling, and the affixing of tags on trapping gear; expressed opposition to the season dates and their effect on sustaining the turtle population; and suggested that the season should be closed from January 1 through July 15. Mr. Delaney expressed support for the rules, which he believes will protect the current turtle population, and added that he had not observed perceived intimidation of attendees due to the presence of law enforcement at the public hearings he attended. Mr. Obradovich stated that many turtle harvesters fear they will go out of business. In response to questions from Rep. Pettengill, Mr. Obradovich stated that to maintain commercial harvesters' businesses and a sustainable harvest, the rules could allow commercial harvesters catch limits that are different from those of recreational harvesters. In addition, he requested that discussion continue and a compromise be sought.

Sen. Costello suggested that before the rule making is reviewed again, the department revisit the effect of the amendments on the livelihood of commercial harvesters. Rep. Pettengill expressed the opinion that the amendments proposed by the department implement the statute as enacted.

**TRANSPORTATION DEPARTMENT** Sara Siedsma represented the department. Other interested parties included Dane Schumann on behalf of the American Legion of Iowa.

ARC 2800C

Proposed amendments to chs 605 and 630 pertain to a veteran designation on a driver's license or nonoperator's identification card.

Transportation Department (continued)

In response to an inquiry from Mr. Schumann, Ms. Siedsma stated that according to the department of veterans affairs, veterans of the U.S. armed forces receive a DD form 214 and are therefore not listed in the last sentence of 605.2(7)“e”(1) with members of the national guard or reserve forces who may receive a form other than the DD form 214 upon discharge. Rep. Vander Linden confirmed that all veterans of the U.S. armed forces receive a DD form 214 upon discharge. Ms. Siedsma also clarified that as required by the Iowa Code but not stated in the rules, the department provides to local veteran service organizations monthly notification of veteran designation recipients.

**Committee business**

The minutes of the November 14, 2016, meeting were approved.

The next meeting was scheduled for Friday, January 6, 2017, at 9 a.m.

Mr. Ewing discussed the summary of the LSA analysis of rule makings that implement bills enacted during the 2016 legislative session, including the approximate number of bills that were determined not to involve rule making, that authorize but do not require rule making, and that require rule making. Mr. Ewing stated that the results will be provided to the Governor’s office for dissemination to various executive branch agencies. Mr. Ewing also explained that pursuant to 2016 Iowa Acts, House File 2449, within 180 days of the effective date of a bill that requires rule making, an agency must either begin the rule-making process by submission of a Notice of Intended Action to the administrative rules coordinator (ARC) or must submit a notification to the committee to present the reasons why the rule-making process has not yet begun.

Rep. Jones expressed appreciation to Mr. Ewing and Mr. Reilly for the compilation and dissemination of the analysis to the executive branch and expressed concern regarding the delays in rule making. Mr. Ewing explained that the analysis reflects assumptions by LSA about whether a bill requires rule making and that the responsibility for that determination lies with each of the executive branch agencies.

Adjourned

The meeting was adjourned at 12:20 p.m.

Respectfully submitted,

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Stephanie A. Hoff

APPROVED:

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Chair Wally Horn

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Vice Chair Dawn Pettengill