



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 1514 to 1543 include **ARC 1248C** to **ARC 1258C**

AGENDA

Administrative rules review committee 1507

ALL AGENCIES

Agency identification numbers 1512
Citation of administrative rules 1505
Schedule for rule making 1506

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Notice, Description of organization,
1.1(4), 1.2 to 1.4 **ARC 1251C** 1514

DELAYS

Educational Examiners Board[282]
Prohibited conduct between licensees
and former students, 25.3(1) 1544
Veterans Affairs, Iowa Department
of[801] Iowa veterans home,
amendments to ch 10 Delay Lifted 1544

ECONOMIC DEVELOPMENT

AUTHORITY[261]

Notice Terminated, Targeted
jobs withholding tax credit
program—definition of "business,"
update of references, 71.1 to 71.6
ARC 1258C 1515
Notice, Targeted jobs withholding tax
credit program, amendments to chs 71,
187 **ARC 1248C** 1515
Filed, Employee stock ownership plan
(ESOP) formation assistance, ch 56
ARC 1249C 1538

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Delay, Prohibited conduct between
licensees and former students, 25.3(1) 1544

ENGINEERING AND LAND SURVEYING

EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Notice, Transition to computer-based
testing, 3.2, 4.1 **ARC 1254C** 1521

HUMAN SERVICES DEPARTMENT[441]

Notice, Individual assistance grant
program, 58.1, 58.2(2), 58.3 to 58.6,
58.7(1) **ARC 1257C** 1523

IOWA FINANCE AUTHORITY[265]

Filed, Multifamily housing, amend 3.5;
rescind 3.6, 3.7, 3.9, 3.12, 3.20 to 3.27,
3.31 to 3.37 **ARC 1252C** 1540
Filed, Military service member home
ownership assistance program—home
purchase financing, 27.3(2) **ARC 1253C** 1542

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Notice, Group trusts; contribution rates;
refunds; retirement, disability and
death benefits; same gender spouse;
alternate payee; domestic relations
orders, amendments to chs 2, 4, 9, 11 to
14, 16 **ARC 1256C** 1527

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Respiratory care practitioners— practice, continuing education, 262.3(2), 265.5 ARC 1255C	1534
---	------

PUBLIC HEARINGS

Summarized list	1510
-----------------------	------

REVENUE DEPARTMENT[701]

Filed, Interest rate for calendar year 2014, 10.2(33) ARC 1250C	1543
--	------

TREASURER OF STATE

Notice—Public funds interest rates	1536
--	------

**VETERANS AFFAIRS, IOWA DEPARTMENT
OF[801]**

Delay, Iowa veterans home, amendments to ch 10 Delay Lifted	1544
--	------

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2014

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 18 '13	Jan. 8 '14	Jan. 28 '14	Feb. 12 '14	Feb. 14 '14	Mar. 5 '14	Apr. 9 '14	July 7 '14
Jan. 3	Jan. 22	Feb. 11	Feb. 26	Feb. 28	Mar. 19	Apr. 23	July 21
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sep. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sep. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sep. 29
Mar. 28	Apr. 16	May 6	May 21	***May 21***	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	***July 2***	July 23	Aug. 27	Nov. 24
May 21	June 11	July 1	July 16	July 18	Aug. 6	Sep. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sep. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sep. 3	Oct. 8	Jan. 5 '15
July 2	July 23	Aug. 12	Aug. 27	***Aug. 27***	Sep. 17	Oct. 22	Jan. 19 '15
July 18	Aug. 6	Aug. 26	Sep. 10	Sep. 12	Oct. 1	Nov. 5	Feb. 2 '15
Aug. 1	Aug. 20	Sep. 9	Sep. 24	Sep. 26	Oct. 15	Nov. 19	Feb. 16 '15
Aug. 15	Sep. 3	Sep. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 2 '15
Aug. 27	Sep. 17	Oct. 7	Oct. 22	***Oct. 22***	Nov. 12	Dec. 17	Mar. 16 '15
Sep. 12	Oct. 1	Oct. 21	Nov. 5	***Nov. 5***	Nov. 26	Dec. 31	Mar. 30 '15
Sep. 26	Oct. 15	Nov. 4	Nov. 19	***Nov. 19***	Dec. 10	Jan. 14 '15	Apr. 13 '15
Oct. 10	Oct. 29	Nov. 18	Dec. 3	***Dec. 3***	Dec. 24	Jan. 28 '15	Apr. 27 '15
Oct. 22	Nov. 12	Dec. 2	Dec. 17	***Dec. 17***	Jan. 7 '15	Feb. 11 '15	May 11 '15
Nov. 5	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '15	Jan. 21 '15	Feb. 25 '15	May 25 '15
Nov. 19	Dec. 10	Dec. 30	Jan. 14 '15	Jan. 16 '15	Feb. 4 '15	Mar. 11 '15	June 8 '15
Dec. 3	Dec. 24	Jan. 13 '15	Jan. 28 '15	Jan. 30 '15	Feb. 18 '15	Mar. 25 '15	June 22 '15
Dec. 17	Jan. 7 '15	Jan. 27 '15	Feb. 11 '15	Feb. 13 '15	Mar. 4 '15	Apr. 8 '15	July 6 '15

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Friday, January 3, 2014	January 22, 2014
16	Friday, January 17, 2014	February 5, 2014
17	Friday, January 31, 2014	February 19, 2014

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, January 10, 2014, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

- Description of organization, 1.1(4), 1.2 to 1.4 Notice ARC 1251C 12/25/13
- Grace period for registration renewal, 2.5, 2.11 Filed ARC 1210C 12/11/13

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

- Approval of postsecondary schools, amendments to ch 21 Filed ARC 1216C 12/11/13

ECONOMIC DEVELOPMENT AUTHORITY[261]

- Employee stock ownership plan (ESOP) formation assistance, ch 56 Filed ARC 1249C 12/25/13
- Targeted jobs withholding tax credit program—definition of “business,” update of references, 71.1 to 71.6 Notice of Termination ARC 1258C 12/25/13
- Targeted jobs withholding tax credit program, amendments to chs 71, 187 Notice ARC 1248C 12/25/13

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

- School counselors—licensure and practice, 13.15, 13.28, 27.3 Notice ARC 1236C 12/11/13
- Family and consumer sciences endorsements, 13.28(9), 17.1 Notice ARC 1235C 12/11/13
- Initial administrator license, 18.4 Notice ARC 1234C 12/11/13
- Paraeducators—competencies for generalists and special needs concentration, 24.3, 24.4(2) Notice ARC 1233C 12/11/13

EDUCATION DEPARTMENT[281]

- Student member of state board of education, 1.2 Notice ARC 1244C 12/11/13
- Private instruction and dual enrollment, amendments to ch 31 Filed ARC 1246C 12/11/13
- State standards for progression in reading, ch 62 Notice ARC 1245C 12/11/13

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

- Transition to computer-based testing, 3.2, 4.1 Notice ARC 1254C 12/25/13

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Air quality—nonattainment areas, amendments to chs 20, 22, 31, 33 Filed ARC 1227C 12/11/13

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

- Iowa hazard mitigation plan, 9.3 Filed ARC 1241C 12/11/13

HUMAN SERVICES DEPARTMENT[441]

- Appeals based on the competitive procurement bid process, amendments to ch 7 Filed ARC 1206C 12/11/13
- PROMISE JOBS program—limited benefit plan, 41.24(8), 93.13 Filed ARC 1208C 12/11/13
- Electronic access card use at prohibited locations, 41.25(11), 46.21, 46.24(3), 60.10(4), 60.16 Filed ARC 1207C 12/11/13
- Individual assistance grant program, 58.1, 58.2(2), 58.3 to 58.6, 58.7(1) Notice ARC 1257C 12/25/13
- Iowa health and wellness plan—enrollment for IowaCare members, 74.15 Notice ARC 1213C, also Filed Emergency ARC 1214C 12/11/13
- Financial eligibility determinations for family planning services, 75.70, 75.71 Notice ARC 1211C, also Filed Emergency ARC 1212C 12/11/13
- Supreme court guidelines—establishment and modification of child support, amendments to chs 95, 99 Notice ARC 1228C 12/11/13
- Child care centers and child development homes—licensure status, notifications, 109.2(6), 109.4(3), 109.6(6), 109.10(10), 110.7 Filed ARC 1209C 12/11/13

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Hospital accreditation organizations, 51.2, 51.6, 51.53(7) Notice ARC 1230C 12/11/13
- Hospitals—criminal, dependent adult abuse, and child abuse record checks for prospective employees, 51.41 Notice ARC 1242C 12/11/13

Nursing facilities and residential and intermediate care facilities—resident advocate committee, certified volunteer long-term care ombudsman, amendments to chs 54, 57, 58, 62 to 65 Filed **ARC 1205C** 12/11/13

Nursing facilities and residential and intermediate care facilities—dependent adult abuse, amendments to chs 57, 58, 62 to 65 Filed **ARC 1204C** 12/11/13

IOWA FINANCE AUTHORITY[265]

Multifamily housing, amend 3.5; rescind 3.6, 3.7, 3.9, 3.12, 3.20 to 3.27, 3.31 to 3.37 Filed **ARC 1252C** 12/25/13

Military service member home ownership assistance program—home purchase financing, 27.3(2) Filed **ARC 1253C** 12/25/13

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Group trusts; contribution rates; refunds; retirement, disability and death benefits; same gender spouse; alternate payee; domestic relations orders, amendments to chs 2, 4, 9, 11 to 14, 16 Notice **ARC 1256C** 12/25/13

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Safety standard—platform lifts and stairway chairlifts, 72.1(9) Filed **ARC 1232C** 12/11/13

Wrestling, boxing, mixed martial arts—general requirements for athletic events, adopt ch 169; amend chs 170 to 174, 177 Filed **ARC 1240C** 12/11/13

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Snowmobile registration revenue cost-share program, amend 28.1 to 28.18; adopt 47.30 to 47.47 Filed **ARC 1226C** 12/11/13

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Pharmacist-interns, 4.1, 4.3, 4.6, 4.7, 4.9(2) Notice **ARC 1237C** 12/11/13

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Chiropractors—continuing education hours by presentation type, 44.3(2)“a”(1) Filed **ARC 1201C** 12/11/13

Respiratory care practitioners—practice, continuing education, 262.3(2), 265.5 Notice **ARC 1255C** 12/25/13

PUBLIC HEALTH DEPARTMENT[641]

Immunization registry—addition of health screening information, 7.1, 7.11, 7.12 Notice **ARC 1229C** 12/11/13

Human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), ch 11 Filed **ARC 1215C** 12/11/13

Plumbing and mechanical systems board—licensee practice, ch 23 Filed **ARC 1218C** 12/11/13

Plumbing and mechanical systems board—mechanical, HVAC-refrigeration, and sheet metal licensees, 27.1, 27.2(1), 27.3(8)“e” Filed **ARC 1219C** 12/11/13

Plumbing and mechanical systems board—licensure and examination, amendments to ch 29 Filed **ARC 1220C** 12/11/13

Plumbing and mechanical systems board—continuing education, 30.1, 30.2, 30.5 Filed **ARC 1221C** 12/11/13

Plumbing and mechanical systems board—licensee discipline, 32.1, 32.2, 32.5, 32.6 Filed **ARC 1222C** 12/11/13

Plumbing and mechanical systems board—contested cases, 33.13(2) Filed **ARC 1223C** 12/11/13

Plumbing and mechanical systems board—reciprocity agreements for mechanical, HVAC-refrigeration, and sheet metal licensees, 35.2, 35.3(1)“b” Filed **ARC 1224C** 12/11/13

Tobacco use prevention and control community partnership initiative, 151.4, 151.6, 151.7 Filed **ARC 1225C** 12/11/13

PUBLIC SAFETY DEPARTMENT[661]

Continuing education for manufactured home installers, 374.7(1) Notice **ARC 1239C** 12/11/13

REVENUE DEPARTMENT[701]

Department organization; individual, corporation, and franchise taxes and credits, amendments to chs 3, 6 to 8, 10, 38 to 43, 46, 48, 52, 53, 58, 59 Notice **ARC 1231C** 12/11/13

Interest rate for calendar year 2014, 10.2(33) Filed **ARC 1250C** 12/25/13

Property assessment appeal board, 71.21 Notice **ARC 1238C** 12/11/13

SECRETARY OF STATE[721]

Performance of notarial act on electronic record, 43.5 Filed **ARC 1243C** 12/11/13

TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signing, 119.2(2), 119.3, 119.4, 119.5(3) Filed **ARC 1202C**..... 12/11/13

Private directional signing, 120.1, 120.2, 120.5(3), 120.6(4), 120.7(3), 120.8(3), 120.9
Filed **ARC 1203C**..... 12/11/13

TREASURER OF STATE[781]

Deposit of public funds by state agencies, ch 11 Filed **ARC 1217C** 12/11/13

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Senator Roby Smith
2036 East 48th Street
Davenport, Iowa 52807

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ARCHITECTURAL EXAMINING BOARD[193B]

Description of organization, 1.1(4), 1.2 to 1.4 IAB 12/25/13 ARC 1251C	Board Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 14, 2014 9 a.m.
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EDUCATIONAL EXAMINERS BOARD[282]

School counselors—licensure and practice, 13.15, 13.28, 27.3 IAB 12/11/13 ARC 1236C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Family and consumer sciences endorsements, 13.28(9), 17.1 IAB 12/11/13 ARC 1235C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Initial administrator license, 18.4 IAB 12/11/13 ARC 1234C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Paraeducators—competencies for generalists and special needs concentration, 24.3, 24.4(2) IAB 12/11/13 ARC 1233C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.

EDUCATION DEPARTMENT[281]

Student member of state board of education, 1.2 IAB 12/11/13 ARC 1244C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 3, 2014 1 to 2 p.m.
State standards for progression in reading, ch 62 IAB 12/11/13 ARC 1245C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 3, 2014 2 to 3 p.m.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Transition to computer-based testing, 3.2, 4.1, IAB 12/25/13 ARC 1254C	Professional Licensing Bureau, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 15, 2014 9 to 11 a.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Group trusts; contribution rates; refunds; retirement, disability and death benefits; same gender spouse; alternate payee; domestic relations orders, amendments to chs 2, 4, 9, 11 to 14, 16 IAB 12/25/13 ARC 1256C	IPERS 7401 Register Dr. Des Moines, Iowa	January 14, 2014 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Respiratory care practitioners— practice, continuing education, 262.3(2), 265.5 IAB 12/25/13 ARC 1255C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 14, 2014 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Energy conservation code— adoption by reference, 301.10, 303.1 to 303.3 IAB 11/27/13 ARC 1198C	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 7, 2014 10 a.m.
Continuing education for manufactured home installers, 374.7(1) IAB 12/11/13 ARC 1239C	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 21, 2014 10 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Military Division[611]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 1251C

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Description of Organization,” Iowa Administrative Code.

The rules in Chapter 1 describe the organization of the Architectural Examining Board. These amendments will update the titles of the staff and the mailing address of the Board and allow for an electronic roster of persons who have failed to renew their registrations.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 14, 2014. Such written materials should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov. Persons who wish to convey their views orally should contact Lori SchraderBachar, Iowa Architectural Examining Board, at (515)725-9030 or at the Board offices, 200 E. Grand Avenue, Suite 350, Des Moines.

Also, there will be a public hearing on January 14, 2014, at 9 a.m. at the Board offices, 200 E. Grand Avenue, Suite 350, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Architectural Examining Board and advise of specific needs.

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Board on November 12, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 544A.

The following amendments are proposed.

ITEM 1. Amend subrule 1.1(4) as follows:

1.1(4) ~~Administrative secretary~~ Board administrator. The ~~division~~ professional licensing and regulation bureau may employ ~~an administrative secretary~~ a board administrator who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The ~~division administrator~~ bureau chief or designee shall sign vouchers for payment of board obligations.

ITEM 2. Amend rule 193B—1.2(544A,17A) as follows:

193B—1.2(544A,17A) Office of the board. The mailing address of the board shall be: Iowa Architectural Examining Board, ~~1918 S.E. Hulsizer, Ankeny, Iowa 50021~~ 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 3. Amend rule 193B—1.3(544A,17A) as follows:

193B—1.3(544A,17A) Meetings. Meetings of the board are regularly scheduled for the second Tuesday of January, March, May, July, September, and November. Meetings may be postponed, canceled, or rescheduled by the president for the convenience of the board. Board members shall be informed of

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

meetings by the ~~administrative secretary~~ board administrator in writing at least one week before the scheduled date of the meeting.

ITEM 4. Amend rule 193B—1.4(544A,17A) as follows:

193B—1.4(544A,17A) Certificates. Certificates issued to successful applicants shall contain the registrant's name, state registration number and the signatures of the board president, vice president and secretary. All registrations are renewable biennially on July 1, with registrants whose last names begin with the letters A-K renewing in even-numbered years and registrants whose last names begin with the letters L-Z renewing in odd-numbered years as provided in rule 193B—2.5(17A,272C,544A).

The board shall ~~give notice by certified mail, return receipt requested, to the holder of a certificate~~ maintain an electronic roster of those holders of certificates of registration who has have failed to renew. The certificate of registration may be reinstated in accord with rule 193B—2.4(544A,17A).

ARC 1258C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Termination**

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 0447C** on November 14, 2012, proposing to amend Chapter 71, "Targeted Jobs Withholding Tax Credit Program," Iowa Administrative Code.

The Notice proposed to amend the definition of "business," thus changing the types of businesses that are eligible for the program, and also to update references from the Iowa Department of Economic Development to the Economic Development Authority. The Authority is terminating the rule making commenced in **ARC 0447C** because the Adopted and Filed version of the proposed amendments was not adopted within the time frame set out in statute for adoption of a Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

ARC 1248C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority gives Notice of Intended Action to amend Chapter 71, "Targeted Jobs Withholding Tax Credit Program," and Chapter 187, "Contracting," Iowa Administrative Code.

The rules in Chapter 71 describe the Targeted Jobs Withholding Tax Credit Program. These amendments update existing rules to change program definitions, require that the Authority be a party to withholding agreements, allow the Authority to negotiate the amount of credits awarded and the duration of withholding agreements, extend the sunset date for the program, require the Board to approve or deny new agreements and outline the conditions under which an agreement may be denied, set a performance period for both retained jobs and created jobs and clarify the conditions under which a program can be terminated, specify what elements must be included in local development agreements, and require pilot project cities to submit a report annually to allow the Authority to better assess compliance with withholding agreements. The amendment to Chapter 187 updates the approval

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

procedures for the Targeted Jobs Withholding Tax Credit Program in accordance with changes enacted in 2013 Iowa Acts, Senate File 433.

The Economic Development Authority Board approved these amendments at a Board meeting on November 22, 2013.

Interested persons may submit comments on or before January 14, 2014. Comments may be submitted to Kristin Hanks, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-0440; e-mail: kristin.hanks@iowa.gov.

These amendments do not have any fiscal impact to the state of Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433.

The following amendments are proposed.

ITEM 1. Amend rule 261—71.1(403) as follows:

261—71.1(403) Definitions.

“Act” means Iowa Code section 403.19A.

“Authority” means the economic development authority.

“Award date” means the same as defined in 261—Chapter 173.

“Base employment level” means the same as defined in 261—Chapter 173.

“Board” means the Iowa economic development board created in Iowa Code section 15.103 members of the authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“Business” means any an enterprise that is located in this state and that is operated for profit and under a single management. “Business” includes professional services or industrial enterprise, including and industrial enterprises, including but not limited to medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. “Business” does not include a retail operation, a government entity, or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

“Countywide average wage” means the average that the department authority calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“Created job” means the same as defined in 261—Chapter 173.

“Department” means the Iowa department of economic development.

“Due diligence committee” or “DDC” means the due diligence committee organized by the board pursuant to 261—Chapter 1.

“Employee” means the individual employed in a targeted job that is subject to a withholding agreement.

“Employer” means a business creating or retaining targeted jobs in an urban renewal area of a pilot project city pursuant to a withholding agreement.

“Employer’s taxable capital investment” means a capital investment in real property, including but not limited to the purchase of land and existing buildings and building construction included in the project, that is subject to taxation by the local taxing authority.

“Full-time equivalent job” or “full-time” means the same as defined in 261—Chapter 173.

“Local financial support” or “local match” means cash or in-kind contributions to be used for the project from a private donor, a business, or the pilot project city. “Cash” includes but is not limited to loans, forgivable loans or grants. “In-kind contributions” means contributions directly related to the project and includes but is not limited to the construction of private or public infrastructure or other amenities and improvements.

“Pilot project city” means a city that has applied and been approved as a pilot project city pursuant to rule 261—71.2(403).

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Project initiation” means the same as defined in 261—Chapter 173.

“Qualifying investment” means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. “Qualifying investment” also means a capital investment in depreciable assets. For purposes of this paragraph, “long-term lease costs” means those costs incurred or expected to be incurred under a lease during the duration of a withholding agreement, provided that the cumulative cost for that period does not exceed the cost of the land and the third-party developer’s costs to build or renovate the building for the approved business.

“Retained job” means a full-time equivalent position in existence at the time an employer applies to the authority for approval of a withholding agreement and which remains continuously filled and which is at risk of elimination if the project for which the employer is seeking assistance under the withholding agreement does not proceed. For the purposes of this definition, a position “at risk of elimination” includes a position that would be relocated out of state.

“Targeted job” means a job in a business which is or will be located in an urban renewal area of a pilot project city that pays a wage at least equal to the countywide average wage. “Targeted job” includes new or retained jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the department authority, that are moving to or expanding in Iowa.

“Urban renewal area” means the same as defined in Iowa Code section 403.17.

“Withholding agreement” means an agreement authorized in rule 261—71.4(403) between a pilot project city, the authority, and an employer concerning the targeted jobs withholding tax credit and that includes an application for a project that is the subject of a withholding agreement.

ITEM 2. Strike “department” wherever it appears in rules **261—71.2(403)** and **261—71.3(403)**, paragraph **71.6(1)“a,”** relettered paragraphs **71.6(1)“d”** and **“e,”** and subrule **71.6(2)**, except in the phrases “department of management,” “department of revenue,” and “department of workforce development,” and insert “authority” in lieu thereof.

ITEM 3. Amend rule 261—71.3(403), catchwords, as follows:

261—71.3(403) Application Pilot project city application process and review.

ITEM 4. Amend subparagraph **71.3(1)“b”(2)** as follows:

(2) Planned and current projects. The city shall provide information on planned and current economic development projects that are taking place or will take place in ~~an urban renewal area~~ a pilot project city. The city shall demonstrate its ability to enter into a withholding agreement with an eligible business within one year of the city’s approval as a pilot project city.

ITEM 5. Rescind subparagraph **71.3(1)“b”(4)**.

ITEM 6. Renumber subparagraph **71.3(1)“b”(5)** as **71.3(1)“b”(4)**.

ITEM 7. Amend rule 261—71.4(403) as follows:

261—71.4(403) Withholding agreements.

71.4(1) Designated account. An approved pilot project city may provide by city ordinance for a ~~designated account~~ resolution for the deposit of funds generated through withholding agreements into a designated withholding project fund under the targeted jobs withholding tax credit program.

71.4(2) Entering into a withholding agreement.

a. Agreement between a pilot project city, the authority, and a business. ~~A~~ The authority and a pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in an urban renewal area a pilot project city. The authority and a pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating or retaining at least ten new jobs or making a qualifying investment of at least \$500,000 within the urban renewal area pilot project city.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

b. Total amount of withholding tax credits. The withholding agreement shall provide for the total amount of withholding tax credits awarded, as negotiated by the economic development authority, the pilot project city, and the employer. An agreement shall not provide for an amount of withholding tax credits that exceeds the amount of qualifying investment made in the project.

c. Ineligibility if there is competition between pilot project city and non-pilot project city. A withholding agreement shall not be entered into with an employer not already located in a pilot project city when another Iowa community is competing for the same project and both the pilot project city and the other Iowa community are seeking assistance from the department authority.

d. Option of a business to enter into withholding agreement. A business shall not be obligated to enter into a withholding agreement with a pilot project city and the authority.

e. ~~2013 sunset~~ Sunset date. A pilot project city and the authority shall not enter into a withholding agreement with a business after June 30, ~~2013~~ 2018.

f. ~~Department~~ Board approval of withholding agreements. Prior to entering into a withholding agreement with a business, a pilot project city shall request department board approval of the withholding agreement. The process for requesting approval from the department board is described in subrule 71.5(1).

71.4(3) Required components of a withholding agreement. A withholding agreement shall be disclosed to the public and shall contain all of the following:

a. A copy of the adopted local development agreement between the pilot project city and employer that outlines local incentives or assistance for the project using urban renewal or urban revitalization incentives, if applicable, including and how withholding funds generated by the city will be used.

b. to i. No change.

71.4(4) Length of withholding agreements. A withholding agreement may have a term of up to ten years, as negotiated by the authority, the pilot project city, and the employer. A withholding agreement specifying a term of years or a total amount of withholding credits shall either terminate upon the expiration of the term of years specified in the agreement or upon the award of the total amount of withholding credits specified in the agreement, whichever occurs first.

71.4(5) Withholding generated through the program.

a. Once a pilot project city, the authority, and an employer have entered into a withholding agreement, an amount equal to 3 percent of the gross wages paid by the business to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to Iowa Code ~~Supplement~~ section 422.16. If the amount of withholding by the employer is less than 3 percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever occurs first.

b. The employer shall submit the amount of the credit quarterly, in the same manner as withholding payments are made to the department of revenue, to the pilot project city.

c. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld under the targeted jobs withholding tax credit program as provided in Iowa Code ~~Supplement~~ section 422.16.

71.4(6) Use of withholding funds. A pilot project city shall allocate the withholding funds into a designated account ~~in the special withholding project fund for the urban renewal area in which the targeted jobs are located~~ project. All funds deposited shall be used or pledged by the pilot project city for ~~an urban renewal~~ a project related to the employer pursuant to the withholding agreement.

71.4(7) No change.

71.4(8) Termination of a withholding agreement. Following the termination of a withholding agreement, the employer credits shall cease and any funds received by the pilot project city after the agreement has been terminated shall be remitted to the state treasurer to be deposited in the general fund of the state. The pilot project city shall notify the department of revenue ~~and the department of economic development~~ within 30 days of the termination of the withholding agreement. If the authority, following an 18-month performance period beginning on the date the withholding agreement is approved by the board, determines that the employer does not meet the requirements of the withholding

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

agreement relating to retaining jobs, if applicable, the agreement shall be terminated by the authority and the pilot project city and any withholding credits for the employer shall cease. ~~If the employer has created or retained the required number of new jobs under the agreement, and the number of jobs falls below the required level, the employer shall not be considered in default until 18 months after the date of the decrease in new jobs.~~ If the authority, following a three-year performance period beginning on the date the withholding agreement is approved by the board, determines that the employer has not met or is incapable of meeting the requirements of the withholding agreement relating to creating jobs, if applicable, or the requirement of the withholding agreement relating to the qualifying investment prior to the end of the withholding agreement, the authority may reduce the future benefits to the employer under the agreement or negotiate with the other parties to terminate the agreement early.

71.4(9) Participation in other programs. An employer may participate in the Iowa industrial new jobs training program under Iowa Code Supplement section 260E.5 or may claim a supplemental withholding credit under Iowa Code Supplement section 15E.197, at the same time the employer is participating in the targeted jobs withholding tax credit program. The withholding credit under section 260E.5 and the supplemental withholding credit under section 15E.197 shall be collected and disbursed prior to the collection and disbursement of the withholding credit under the targeted jobs withholding tax credit program.

ITEM 8. Amend subrule 71.5(1) as follows:

71.5(1) Request for department board approval of withholding agreement.

a. Request for approval form. ~~Prior to entering into a withholding agreement with an employer and the authority, a pilot project city must receive approval from the department board, on behalf of the authority. The department authority shall develop and make available to the pilot project cities a standardized form to be used by pilot project cities to request department board approval of a proposed withholding agreement. To request department board approval of a proposed withholding agreement, a pilot project city shall provide the department submit the standardized form to the authority with the following information:~~

(1) A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.

(2) Base employment of the number of full-time equivalent positions at a business as established by the ~~department~~ authority and the pilot project city, using the business's payroll records, as of the date that a business files an application with a pilot project city for financial assistance under the program.

(3) Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.

(4) A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the pilot project city will receive from the project.

~~(5) A copy of the proposed withholding agreement to be entered into between the pilot project city and the employer.~~

~~(6)~~ (5) A letter or resolution of support from the local government showing support for the project.

b. Timing of submittal. Requests for department board approval of a proposed withholding agreement may be submitted at any time. The department authority will review requests for approval of a proposed withholding agreement in as timely a manner as possible.

c. Department Board action on requests for approval. ~~The department board, on behalf of the authority, may approve, or deny, or suggest changes to a withholding agreement according to the provisions of this chapter. Each withholding agreement and the total amount of the withholding credits allowed under the withholding agreement shall be approved by the board after taking into account the incentives or assistance received by or to be received by the employer under other economic development programs. The department board shall only deny an a withholding agreement if the agreement fails to meet the requirements as stated in subrule 71.4(2) and paragraph 71.6(1) "b" or the local match requirement as stated in subrule 71.4(7) or if an employer is not in good standing as to prior or existing agreements with the department authority. The board shall have the authority to negotiate~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

a withholding agreement and may suggest changes to any of the terms of the withholding agreement, including the total amount of withholding credits. A pilot project city and employer will be notified in writing of the ~~department's~~ board's decision regarding the proposed withholding agreement.

ITEM 9. Reletter paragraphs **71.6(1)“b”** to **“d”** as **71.6(1)“c”** to **“e.”**

ITEM 10. Adopt the following **new** paragraph **71.6(1)“b”**:

b. Pursuant to rules adopted by the authority, the pilot project city shall provide to the authority information documenting the compliance of each employer with each requirement of the withholding agreement, including but not limited to the number of jobs created or retained, the wages associated with the targeted jobs, and the amount of investment made by the employer. The pilot project city shall provide this information annually by September 1. The authority shall, in response to receiving such information from the pilot project city, assess the level of compliance by each employer and provide to the pilot project city recommendations for either maintaining employer compliance with the withholding agreement or terminating the agreement for noncompliance under subrule 71.4(8). The authority shall also provide each such assessment and recommendation report to the department of revenue.

ITEM 11. Amend relettered paragraph **71.6(1)“c”** as follows:

c. The employer, in conjunction with the pilot project city, shall provide information documenting the total amount of payments and receipts from the ~~special~~ withholding project fund under the withholding agreement, including all agreements ~~with an~~ between the pilot project city and the employer to suspend, abate, exempt, rebate, refund, or reimburse property taxes, to provide a grant for property taxes, to provide a grant not related to property taxes, or to make a direct payment of taxes. The employer and the pilot project city shall submit this information to the ~~department~~ authority annually by September 1 covering the prior fiscal year (July 1 to June 30). The ~~department~~ authority shall verify the information provided ~~by the pilot project city~~ and determine whether the pilot project city and the employer are in compliance with Iowa Code section 403.19A and this chapter. The ~~department~~ authority will verify job creation or retention using the method described in 261—Chapter 188.

ITEM 12. Amend relettered subparagraph **71.6(1)“e”(4)** as follows:

(4) Payments and receipts as described in paragraph 71.6(1)“~~b c.~~”

ITEM 13. Adopt the following **new** rule 261—71.7(403):

261—71.7(403) Applicability.

71.7(1) Except as provided in rule 261—71.2(403), this chapter applies to withholding agreements entered into on or after July 1, 2013, in accordance with 2013 Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433. Withholding agreements entered into prior to July 1, 2013, shall be governed by this chapter as it existed prior to the enactment of 2013 Iowa Acts, Senate File 433.

71.7(2) Paragraph 71.6(1)“b” applies to withholding agreements entered into prior to July 1, 2013, or entered into on or after July 1, 2013.

71.7(3) The authority will work with pilot project cities and businesses to amend existing agreements to reflect the requirements of subrule 71.7(2) of this rule.

ITEM 14. Amend **261—Chapter 71**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433.

ITEM 15. Amend paragraph **187.5(3)“f”** as follows:

f. The table below describes the approval procedures that shall be followed for all negotiated settlements, write-offs or discontinuance of collection efforts for state direct financial assistance programs, federal programs, and other programs administered by the authority.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
GIVF	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
LCG	State	DDC	Board
FILM	State		Director
ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
HOME	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State	<u>DDC</u>	<u>Director</u> <u>Board</u>

ARC 1254C

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 3, “Application and Renewal Process,” and Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

The proposed amendments to Chapters 3 and 4 are necessitated by the transition to computer-based testing beginning in January 2014. Stakeholder feedback was solicited via registered lobbyist David Scott, whose clients include the Iowa Engineering Society and the Society of Land Surveyors of Iowa. No negative feedback was received.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before January 15, 2014. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 200 E. Grand, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to robert.lampe@iowa.gov.

A public hearing will be held on Wednesday, January 15, 2014, from 9 to 11 a.m. at the offices of the Professional Licensing Bureau, 200 E. Grand, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

These proposed amendments were approved by the Board on September 12, 2013.

There is no fiscal impact to the state of Iowa. The transition from paper-and-pencil to computer-based testing is being led by the national administrator of the examinations and will result in the following increases in registration fees incurred by examination applicants: a \$100 increase for Fundamentals of Engineering applicants and a \$55 increase for Fundamentals of Surveying applicants. The registration fees are paid to the administrator of the examinations. While the cost of the examinations will increase, it will be offset to some degree by a decrease in travel costs due to a larger number of testing sites across the state. Testing will also be available year-round, as opposed to twice a year, increasing the convenience for examinees.

After analysis and review of this rule making, no adverse impact on jobs has been found. Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact toward jobs.

These amendments are intended to implement Iowa Code section 542B.13.

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(1) as follows:

3.2(1) *Fundamentals of Engineering examination application components and due dates.* Applications for the Fundamentals of Engineering examination are submitted directly to the examination service selected by the board to administer the examinations, ~~and must be received on or before September 1 of each year for the examination given in the fall and on or before March 1 of each year for the examination given in the spring.~~ Applications from the following applicants are submitted on forms provided by the examination service: ~~any applicant who has an ABET/EAC or Canadian Engineering Accreditation Board (CEAB) accredited engineering degree; any applicant who is enrolled as a senior student in an ABET/EAC or CEAB accredited engineering curriculum; or any applicant who has a master's degree in engineering from an institution in the United States with an accredited bachelor's degree in the same curriculum.~~ Applicants who do not meet the criteria above must submit an application for approval to the board on forms provided by the board. ~~The components of this application include: the completed, notarized application form; references; and transcripts.~~

ITEM 2. Amend subrule 3.2(2) as follows:

3.2(2) *Fundamentals of Land Surveying examination application components and due dates.* The components of this application include: the completed, notarized application form; references pursuant to 193C—paragraph 5.1(5)“b”; and transcripts. Fundamentals of Land Surveying examination applications ~~require a detailed review and must, therefore, be submitted to the board office, postmarked on or before July 15 of each year for the examination given in the fall and on or before January 15 of each year for the examination given in the spring.~~ Examinations are offered during four two-month testing periods throughout the year. Applications must be postmarked on or before October 15 for the January/February window, February 15 for the April/May window, April 15 for the July/August window, and August 15 for the October/November window.

ITEM 3. Amend subparagraph **4.1(1)“a”(1)** as follows:

(1) If an applicant did not graduate from an Accreditation Board of Engineering and Technology/Engineering Accreditation Commission (ABET/EAC) or Canadian Engineering Accreditation Board (CEAB) ~~approved -accredited~~ curriculum, the applicant must also complete, in addition to the engineering degree, a one extra year of practical experience satisfactory to the board after receiving the engineering degree ~~and prior to taking the Fundamentals of Engineering examination.~~

ITEM 4. Amend subrule 4.1(2) as follows:

4.1(2) Second, the applicant must successfully complete the Fundamentals of Engineering examination (FE exam).

a. An applicant may take the ~~Fundamentals of Engineering examination~~ FE exam any time after the educational requirements as specified above are completed, but the applicant must successfully complete the ~~Fundamental of Engineering examination~~ FE exam prior to taking the Principles and Practice of Engineering examination.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

b. College seniors studying an ABET/EAC- or CEAB ~~approved~~ -accredited curriculum may take the ~~Fundamentals of Engineering examination~~ FE exam during the final academic year. Applicants will be permitted to take the examination during the testing period which most closely precedes anticipated graduation. ~~However, an official transcript from the applicant's college or university verifying that the applicant graduated must be sent by the registrar to the board office before an applicant's examination results will be released.~~

c. An applicant who graduated from a satisfactory engineering program and has 25 years or more of work experience satisfactory to the board shall not be required to take the ~~Fundamentals of Engineering examination~~ FE exam.

d. An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, shall not be required to take the ~~Fundamentals of Engineering examination~~ FE exam.

e. Commencing with the computer-based FE exams in 2014, all FE exam candidates will apply directly to the National Council of Examiners for Engineering and Surveying (NCEES) and will self-attest as to the candidate's eligibility to sit for the FE exam. At that time, NCEES will cease its prior practice of receiving and verifying college transcripts for candidates with ABET/EAC- or CEAB-accredited engineering degrees and for candidates in their senior years of such programs. The board will also cease its practice of processing FE exam applications for those candidates who hold engineering degrees from nonaccredited programs who must have one year of experience in order for the degrees to be accepted by the board. The board will instead verify acceptable education and experience at the time an applicant applies to sit for the Principles and Practice of Engineering examination or applies for an Engineer Intern (EI) number. The board shall apply the education and experience standards set forth in this rule, but will allow reasonable flexibility in timing in the event an applicant sat for and passed the FE exam at a point earlier than provided in this rule. The board will not, however, issue an EI number unless all required experience has been satisfied at the time of the EI application.

ARC 1257C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 29C.20A(2), the Department of Human Services proposes to amend Chapter 58, “Emergency Assistance,” Iowa Administrative Code.

The purpose of these amendments is to implement the provision of assistance under the Iowa Individual Assistance Grant Program (IIAGP) by an entity contracted by the Department as the result of a disaster. The Department will establish contracts for service for local provision of assistance to individuals affected by Governor-designated disaster events.

Any interested person may make written comments on the proposed amendments on or before January 14, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 29C.20A.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Department” in rule **441—58.1(29C)**:
 “*Department*” means the Iowa department of human services.

ITEM 2. Amend subrule 58.2(2) as follows:

58.2(2) Voucher system. ~~To implement a~~ The IIAGP will be implemented through a reimbursement or voucher system for IIAGP, the county board of supervisors shall authorize a local administrative entity to administer the system.

~~a. The local administrative entity may be, but is not limited to:~~

- ~~(1) A local community organization active in disaster (COAD);~~
- ~~(2) A local long-term recovery committee (LTRC);~~
- ~~(3) A nonprofit organization;~~
- ~~(4) A faith-based organization, or~~
- ~~(5) A regional or statewide LTRC.~~

~~b. The local administrative entity shall enter into a contract with the department of human services using Form FA 09-15-2010, Fiscal Agent Contract. The contract shall specify the terms for the administration of IIAGP benefits through a voucher system.~~

ITEM 3. Amend rule 441—58.3(29C) as follows:

441—58.3(29C) Application for assistance. To request assistance for disaster-related expenses, the household shall complete Form 470-4448, Individual Disaster Assistance Application, and submit it within 45 days of the disaster declaration to the ~~county emergency management coordinator~~ contracted administrative entity along with: (1) receipts for the claimed expenses or (2) a request to participate in a voucher system.

58.3(1) Application forms are available from ~~county emergency management coordinators and local offices of the department of human services~~ an approved administrative entity, as well as the Internet Web site of the department at www.dhs.iowa.gov.

58.3(2) The application shall include:

a. A declaration of the household’s annual income, accompanied by:

- (1) A current pay stub, W-2 form, or income tax return, or
- (2) Documentation of current enrollment in an assistance program administered by the department of human services, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.

b. ~~A~~ An authorization to release of confidential information to personnel involved in administering the program.

c. A certification of the accuracy of the information provided.

d. An assurance that the household had no insurance coverage for claimed items.

e. A commitment to refund any part of a grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to local community development groups and charities, the Small Business Administration, or the Federal Emergency Management Administration.

f. A short, handwritten narrative of how the disaster event ~~and how the disaster~~ caused the claimed loss ~~being claimed~~.

g. A copy of a picture identification document for each adult applicant.

h. When vehicle damage is claimed, current copies of the vehicle registration and liability insurance card.

ITEM 4. Amend rule 441—58.4(29C) as follows:

441—58.4(29C) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.4(1) and **58.4(2)** No change.

58.4(3) The household’s self-declared annual income is at or less than 200 percent of the federal poverty level for a household of that size.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- a. Poverty guidelines are updated annually.
- b. All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income. Proof of income is required.

58.4(4) The household has disaster-related expenses or serious needs that are not covered by insurance or ~~the claim is less~~ that are less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.

58.4(5) No change.

ITEM 5. Amend rule 441—58.5(29C) as follows:

441—58.5(29C) Eligible categories of assistance. The maximum assistance available to a household in a single disaster is \$5,000. Assistance is available under the program for the following disaster-related expenses:

58.5(1) Assistance may be issued for personal property, including repair or replacement of the following items, based on the item's condition:

a. Kitchen items, excluding appliances covered under subparagraph 58.5(1) "d"(8), up to a maximum of \$560, including:

- (1) Equipment and furnishings, up to a maximum of \$560.
- (2) Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.

b. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.

c. Clothing and bedroom furnishings, up to a maximum of \$875, including:

- (1) Mattress, box spring, frame, and storage containers, up to a maximum of \$250 per person.
- (2) Clothing, up to a maximum of \$145 per person.

d. Other items, including:

- (1) Infant car seat, up to a maximum of \$40.
- (2) Dehumidifier, up to a maximum of \$150.
- (3) Sump pump (in a flood event only), up to a maximum of \$200 installed.
- (4) Electrical or mechanical repairs, up to a maximum of \$1,000.
- (5) Water heater, up to a maximum of \$425 installed.
- (6) Vehicle repair, up to a maximum of \$500.
- (7) Heating and air-conditioning systems, up to a maximum of \$2,100 installed. Air conditioning is covered only with proof of medical necessity.

(8) Kitchen or laundry appliances up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,100.

58.5(2) Assistance may be issued for home repair as needed to make the home safe, sanitary, and secure, up to a maximum of \$5,000.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

b. Assistance may be authorized for:

- (1) The repair of structural components, such as the foundation and roof.
- (2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Debris removal, including trees, up to a maximum of \$1,000.

(4) Replacement or repair of other items of necessity as approved by the department on a case-by-case basis up to a maximum of \$5,000.

c. Repairs to rental property or landlord-owned equipment are excluded under this program.

58.5(3) No change.

ITEM 6. Amend rule 441—58.6(29C) as follows:

441—58.6(29C) Eligibility determination and payment.

58.6(1) ~~The county emergency management coordinator or designee shall:~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a. Confirm~~ The contracted administrative entity or designee shall confirm that:
 (1) ~~The~~ the address provided on the application is a valid address and is reasonably believed to be in the disaster-affected area, and.

~~(2) Disaster-related expenses were possible as a result of the current disaster.~~

~~b. If receipts are included, submit the household's application form and receipts to the Homeland Security and Emergency Management Division, Camp Dodge, Building W-4, 7105 NW 70th Avenue, Johnston, Iowa 50131. The envelope shall be marked "IIAGP application." The department reserves the right to view the damaged property prior to providing any assistance pursuant to IIAGP.~~

~~c. If the applicant requests to participate in the voucher system, forward the application to the local administrative entity for the county.~~

58.6(2) ~~For applications with receipts:~~

~~a. The homeland security and emergency management division of the department of public defense shall:~~

~~(1) Review the application.~~

~~(2) Submit the household's application form and receipts to the DHS Office of the Deputy Director for Administration, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The envelope shall be marked "IIAGP application."~~

~~b. Designated staff in the department of human services shall:~~

~~a. Monitor applicants' names and addresses as reports are submitted by the administrative entity.~~

~~b. Monitor, review, and provide timely submission of invoices by the administrative entity for payment and shall process appeals.~~

~~(1) Determine eligibility and the amount of payment.~~

~~(2) Notify the applicant household of the eligibility decision.~~

~~(3) Authorize payment to an eligible household.~~

~~(4) Process appeals.~~

58.6(3) ~~For applications with a voucher or reimbursement request:~~

~~a. The local administrative entity for the county, the department or its designee shall:~~

~~(1) a. Determine eligibility and the amount of payment within the rules of the program.~~

~~(2) b. Notify the applicant household of the eligibility decision.~~

~~(3) c. Authorize vouchers to an eligible household to purchase needed goods and services.~~

~~(4) d. Pay vendors for goods and services purchased with vouchers.~~

~~(5) Submit a claim to the department of human services for reimbursement for voucher purchases.~~

~~b. Designated staff in the department of human services shall:~~

~~(1) Process reimbursement to the local administrative entity for claims.~~

~~(2) Process appeals.~~

ITEM 7. Amend subrule 58.7(1) as follows:

58.7(1) *Reconsideration.* ~~The household may request reconsideration of the department's decisions regarding eligibility and the amount of assistance awarded.~~

a. The household may request reconsideration of decisions regarding eligibility and the amount of assistance awarded.

~~a. b.~~ To request reconsideration, the household shall submit a written request to the DHS Office of the Deputy Director for Administration, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the ~~department's~~ letter notifying the household of ~~its~~ the department's decision.

~~b. c.~~ The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days of receipt of the request.

ITEM 8. Amend **441—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Code Supplement chapter 29C as amended by 2010 Iowa Acts, House File 2294.

ARC 1256C**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 2, “Investment Board,” Chapter 4, “Employers,” Chapter 9, “Refunds,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” Chapter 13, “Disability for Regular and Special Service Members,” Chapter 14, “Death Benefits and Beneficiaries,” and Chapter 16, “Domestic Relations Orders and Other Assignments,” Iowa Administrative Code.

IPERS proposes the following amendments: to apply suggested language from tax counsel regarding group trusts; to implement contribution rates for regular and special service members beginning July 1, 2014; to implement new spousal signature requirements for refund applications; to remove the requirement for a notary public on retirement applications; to clarify requirements of a completed retirement or disability retirement application when submitted by a member; to update a rule to conform with the language of its controlling statute; to remove language regarding “same gender spouse” and “administrable domestic relations order (ADRO)” and any related definitions and provisions; to conform IPERS with IRS reporting requirements for distributions to nonspouse successor alternate payees; and to update several rules regarding IPERS' administration of qualified domestic relations orders (QDROs).

These amendments were prepared after consultation with IPERS' staff, IPERS' actuary and the Benefits Advisory Committee.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 14, 2014. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-7623. Comments may also be submitted by fax to (515)281-0045 or by e-mail to adminrule@ipers.org.

Also, a public hearing will be held on January 14, 2014, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

There are no waiver provisions included in the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 97B.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 495—2.2(97B):

495—2.2(97B) Group trusts. Assets of the fund may be invested in a tax-exempt group trust that has been determined by the Internal Revenue Service to be a pooled fund arrangement pursuant to Revenue Ruling 81-100, as modified by Revenue Rulings 2004-67 and 2011-1, and that is operated or maintained exclusively for the commingling and collective investment of moneys. In such case, the terms of the group trust shall be adopted as part of this plan.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 2. Amend paragraph **4.6(1)“b”** as follows:

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014
Combined rate	14.45%	14.88%	14.88%
Employer	8.67%	8.93%	8.93%
Employee	5.78%	5.95%	5.95%

ITEM 3. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014
Combined rate	15.24%	17.88%	19.66%	19.80%	19.76%	19.76%
Employer	7.62%	8.94%	9.83%	9.90%	9.88%	9.88%
Employee	7.62%	8.94%	9.83%	9.90%	9.88%	9.88%

ITEM 4. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014
Combined rate	15.34%	16.59%	16.62%	17.11%	16.90%	16.90%
Employer	9.20%	9.95%	9.97%	10.27%	10.14%	10.14%
Employee	6.14%	6.64%	6.65%	6.84%	6.76%	6.76%

ITEM 5. Amend subrule 9.4(1) as follows:

9.4(1) To obtain a refund, a member must file a refund application form, which is available directly from IPERS or which can be reprinted from IPERS' Web site: www.ipers.org. Effective December 31, 2002, refund application forms shall only be available from IPERS. If the member is married, election of a refund under this chapter requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a refund under this chapter without the written acknowledgment of the member's spouse if the member submits a notarized statement indicating that, after reasonable diligent efforts, the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse. The member's election of a refund shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, nor to any other person affected by the member's election of a refund based upon an election of a refund accomplished without the written acknowledgment of the member's spouse.

ITEM 6. Amend subrule 11.1(1) as follows:

11.1(1) *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

- a. Proof of date of birth for the member.
- b. Option selected, and
 - (1) If Option 1 is selected, the death benefit amount.
 - (2) If Option 4 or 6 is selected, the contingent annuitant's name, ~~gender~~, social security number, proof of date of birth, and relationship to member.
 - (3) If Option 1, 2, or 5 is selected, a list of beneficiaries.
- ~~e.~~ ~~If the member is disabled, a copy of the award letter from social security or railroad retirement and a statement that the member is retiring due to disability.~~
- ~~d. c.~~ If the member has been terminated less than one year, or is applying for disability benefits, the employer certification page must be completed by the employer.
- ~~e. d.~~ Signature of member and spouse, both properly notarized unless witnessed by an authorized employee of the system.
- ~~f. e.~~ If the member has no spouse, "NONE" must be designated.
- ~~f.~~ If the member is applying for regular disability benefits, a copy of the award letter from the Social Security Administration or railroad retirement.

A retirement application is deemed to be valid and binding when on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

ITEM 7. Amend subrule 11.1(3) as follows:

11.1(3) Benefits estimates. Prior to submitting an application for benefits, a member may request IPERS to prepare estimates of projected benefits under the various options as described under Iowa Code section 97B.51. A benefit estimate shall not bind IPERS to payment of the projected benefits under the various options specified in Iowa Code chapter 97B. A member cannot rely on the benefit estimate in making any retirement-related decision or taking any action with respect to the member's account, nor shall IPERS assume any liability for such actions. An estimate will not include deductions for a QDRO or any other legal assignments or orders on a member's account, unless specifically requested by the member. A member's actual benefit can only be known and officially calculated when an eligible member applies for benefits.

ITEM 8. Rescind and reserve subrule **11.2(6)**.

ITEM 9. Amend subrule 12.1(1) as follows:

12.1(1) Formula benefit versus money purchase benefit. If a member ~~has four or more~~ is vested by complete years of service credit in IPERS, a monthly payment allowance will be paid in accordance with the formulas set forth in Iowa Code sections 97B.49A through 97B.49I, the applicable paragraphs of this chapter, and the option the member elects pursuant to Iowa Code section 97B.51(1). IPERS shall determine on the applicable forms which designated fractions of a member's monthly retirement allowance payable to contingent annuitants shall be provided as options under Iowa Code section 97B.51(1). Any option elected by a member under Iowa Code section 97B.51(1) must comply with the requirements of the Internal Revenue Code that apply to governmental pension plans, including but not limited to Internal Revenue Code Section 401(a)(9) ~~and federal laws governing the tax treatment of distributions from a tax-qualified retirement plan to same gender spouses and same gender former spouses.~~ If a member ~~has less than~~ does not have four complete years of service credit, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member's age and option choice.

ITEM 10. Amend subrule 13.1(1) as follows:

13.1(1) For IPERS regular class members retiring because of a disability:

- ~~a.~~ ~~The member must indicate on the application for retirement that the retirement is due to an illness, injury or similar condition.~~
- ~~b. a.~~ The member must be awarded federal social security benefits due to a disability which existed at the time the application for retirement was filed on or before the member's first month of entitlement.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

e. b. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

d. c. The period for which up to 36 months of retroactive payments under Iowa Code section 97B.50(2) shall be paid is for up to 36 months preceding the month in which such completed application for IPERS disability is received by IPERS. In no event shall retroactive disability benefits payments under Iowa Code section 97B.50(2) precede the month the member actually receives the member's first social security or railroad retirement disability payment. The member shall provide IPERS with a copy of the Social Security Administration or railroad retirement award letter showing dates of eligibility.

e. d. Continued qualification monitoring.

(1) For a member retiring due to a disability under Iowa Code section 97B.50(2), on or after January 1, 2009, ~~in order to continue qualification for disability benefits~~, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

(2) For a member retiring due to a disability under Iowa Code section 97B.50A, the member shall provide IPERS ~~may also require~~ complete copies of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

IPERS ~~may shall~~ suspend the disability benefits of any ~~such~~ member if ~~these~~ the records required under these subparagraphs are not timely provided.

ITEM 11. Amend rule 495—14.1(97B) as follows:

495—14.1(97B) Internal Revenue Code limitations. The death benefits payable under Iowa Code sections 97B.51 and 97B.52 shall not exceed the maximum amount possible under Internal Revenue Code Section 401(a)(9).

To ensure that the limit is not exceeded, a member's combined lump sum death benefit under Iowa Code sections 97B.52(1) and 97B.52(2) shall not exceed 100 times the Option 2 amount that would have been payable to the member at the member's earliest normal retirement age. If a beneficiary of a special service member is eligible for an in-the-line-of-duty death benefit, any reduction required under this rule shall be taken first from a death benefit payable under Iowa Code section 97B.52(1). The "100 times" limit shall apply to active and inactive members. The death benefits payable under this chapter for a period of reemployment for a retired reemployed member who dies during the period of reemployment shall also be subject to the limits described in this rule.

The maximum claims period for IPERS lump sum death benefits shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for a member who dies after the member's required beginning date, unless the beneficiary is ~~an opposite gender~~ a spouse. The claims period for all cases in which the member's death occurs during the same calendar year in which a claim must be filed under this rule shall end April 1 of the year following the year of the member's death.

A member's beneficiary or heir may file a claim for previously forfeited death benefits. Interest, if any, for periods prior to the date of the claim will only be credited through the quarter that the death benefit was required to be forfeited by law. Interest for periods following the quarter of forfeiture will accrue beginning with the quarter that the claim for reinstatement is received by IPERS. For death benefits required to be forfeited in order to satisfy Section 401(a)(9) of the federal Internal Revenue Code, in no event will the forfeiture date precede January 1, 1988. IPERS shall not be liable for any excise taxes imposed by the Internal Revenue Service on reinstated death benefits.

Effective January 14, 2004, all claims for a previously forfeited death benefit shall be processed under the procedure set forth at rule 495—14.13(97B).

The system recognizes the validity of same gender marriages consummated in Iowa on or after April 27, 2009. The Iowa Supreme Court decision recognizing same gender marriages in Iowa specifically states that this recognition does not extend to same gender marriages of other states. The following special rules apply to same gender marriages in Iowa. IPERS shall administer marital property and

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

support orders of same gender spouses married in Iowa on or after April 27, 2009, if the orders otherwise meet the system's minimum requirements for such orders, ~~but shall modify the tax treatment of distributions under such orders as required by the federal laws governing such distributions.~~ IPERS shall adopt such rules and procedures as are deemed necessary to fully implement the provisions of this subrule.

ITEM 12. Rescind and reserve rule ~~495—14.18(97B)~~.

ITEM 13. Rescind the definitions of "Administrable domestic relations order" and "Same gender spouse" in subrule **16.2(1)**.

ITEM 14. Amend subrule **16.2(1)**, definition of "Successor alternate payee," as follows:

"*Successor alternate payee*" means a nonspouse person or persons named in a domestic relations order to receive the amounts payable to the former spouse alternate payee under the QDRO ~~or ADRO~~ if the alternate payee dies before the member. Successor alternate payees must be named individuals, not a class of individuals, a trust or an estate.

ITEM 15. Amend subrule 16.2(2) as follows:

16.2(2) Requirements.

a. Mandatory provisions. A domestic relations order is a QDRO ~~or an ADRO~~ if such order:

(1) Clearly specifies the member's name and last-known mailing address, member identification number or social security number, and the names and last-known mailing addresses and social security numbers of alternate payees. This information shall be provided to IPERS ~~in a cover letter or a court's~~ on IPERS' Confidential Information Form form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member's accrued benefit;

(3) Clearly specifies the period to which such order applies;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division; and

(6) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge's signature, electronic clerk of court stamp and judge's signature page via the electronic data management system (EDMS), or is conformed in accordance with local court rules.

b. Prohibited provisions. A domestic relations order is not a QDRO ~~or an ADRO~~ if such order:

(1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;

(2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;

(3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a QDRO ~~or an ADRO~~;

(4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;

(5) Awards any future benefit increases that are provided by the legislature, except as provided in subparagraph 16.2(2)"c"(2); or

(6) Requires the payment of benefits to an alternate payee prior to a trigger event.

c. Permitted provisions. A QDRO ~~or an ADRO~~ may also:

(1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant; or require the payment of benefits under a particular benefit option, or both;

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, or cost-of-living increase or any other postretirement benefit increase to the member (all known as dividend payments), as follows:

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining ~~said~~ the dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent. If a member applies for a refund, a consent form will be sent to the alternate payee at the address of record at IPERS. The completed consent form must be received by IPERS within 60 days. If returned undeliverable or no response is received, the alternate payee's refund amount will be payable to the member. If returned marked "no consent," the refund will not be payable to either the member or alternate payee;

(4) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member; and

(5) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if IPERS does not receive confirmation of the successor's name, social security number, and last-known mailing address ~~in a cover letter or in a copy of the court's confidential information~~ on IPERS' Confidential Information form. A QDRO ~~or an ADRØ~~ that lists a series of default successor alternate payees by class or permits a successor alternate payee to designate additional successor alternate payees is not permitted and will be rejected. Once a QDRO ~~or an ADRØ~~ is accepted by IPERS for administration, in order to change the designation of successor alternate payees, an amended order is required.

ITEM 16. Amend paragraph **16.2(3)"a"** as follows:

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee or any successor alternate payee(s). Payment to the alternate payee (or successor alternate payee(s)) shall be in a lump sum if the member's benefits are paid in a lump sum distribution or as monthly payments if the member's benefits are paid under a retirement option. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and former spouse alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee. Federal and state income taxes shall be deducted from the member's gross payment when a nonspouse successor alternate payee(s) receives a payment. Federal and state income taxes shall be reported under the member's federal tax identification number. Unrecovered basis shall be allocated to the member.

ITEM 17. Amend paragraph **16.2(3)"b"** as follows:

b. The alternate payee shall not be entitled to any share of the member's death benefits except to the extent such entitlement is ~~recognized~~ so provided in a QDRO ~~or an ADRØ~~ or in a beneficiary designation filed subsequent to the dissolution.

ITEM 18. Amend paragraph **16.2(3)"c"** as follows:

c. If a QDRO ~~or an ADRØ~~ directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so, the provisions of the QDRO ~~or ADRØ~~ awarding the alternate payee a share of the member's death ~~benefit~~ benefits shall be deemed, except as revoked or modified in a subsequent QDRO ~~or ADRØ~~, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member's death benefits. Death benefits remaining after payments required by the QDRO ~~or ADRØ~~, to the extent possible, shall then be made according to the terms of the member's most recent beneficiary designation. If a QDRO ~~or an ADRØ~~ does not require the member to select an option, the member is allowed to select any option at retirement, including an option that does not provide for payment of postretirement death benefits.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 19. Amend paragraph **16.2(3)“e”** as follows:

e. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a QDRO ~~or an ADRO~~.

ITEM 20. Amend paragraph **16.2(3)“f”** as follows:

f. The CEO, or CEO's designee, shall have exclusive authority to determine whether a domestic relations order is a QDRO ~~or an ADRO~~. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

ITEM 21. Amend paragraph **16.2(3)“h”** as follows:

h. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a QDRO ~~or an ADRO~~. ~~If distributions have already begun at the time that an order is determined by IPERS to be a QDRO or an ADRO, the order shall be deemed to be the alternate payee's application to begin receiving payments under the QDRO or ADRO.~~ Payment to the alternate payee will be paid ~~for~~ withheld from the member's payment the month the order is accepted alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order, IPERS shall release the hold.

ITEM 22. Amend paragraph **16.2(3)“j”** as follows:

j. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall ~~contact~~ mail the alternate payee ~~in writing, notifying the alternate payee that an application once an application for a distribution has been requested by received from the member and considered a complete application by IPERS. IPERS shall send the alternate payee an application to be completed and returned to IPERS. The written notice shall inform the alternate payee that~~ The application mailed by IPERS to the alternate payee states that, if the alternate payee does not return the application to IPERS within 60 days after the materials are application is mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies). If the member applied for a refund, and the alternate payee's application is not received within the 60 days, the alternate payee's share of the member's lump sum refund shall be paid to the member. If the member applies for a monthly pension payment, unless and until a valid application for the alternate payee's share of the monthly pension payments is received and accepted by IPERS, IPERS shall have no liability to the alternate payee with respect to payment of ~~such~~ monthly amounts, nor will any retroactive payment be made if and when an application is received and accepted. All monthly payments in this case shall be prospective.

ITEM 23. Amend paragraph **16.2(3)“k”** as follows:

k. If a QDRO ~~or an ADRO~~ requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), must also be provided to IPERS prior to approval of the order by IPERS.

ITEM 24. Amend paragraph **16.2(3)“m”** as follows:

m. If an order that is determined to be a QDRO ~~or an ADRO~~ divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS shall

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits.

ITEM 25. Amend paragraph **16.2(3)“n”** as follows:

n. Service credit that is purchased during the period when the member is married to the alternate payee shall be added to the numerator and the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Service credit that is purchased during a period when the member is not married to the alternate payee shall only be added to the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Under no circumstances shall the number of quarters in the denominator be more than the number of quarters used to calculate the member's benefit. Service purchase after retirement shall not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

ITEM 26. Amend paragraph **16.2(3)“o”** as follows:

o. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel by enclosure of the Administrative Rule Compliance for QDROs form. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO ~~or an ADRO~~ is resolved: or the hold is released pursuant to the terms of paragraph 16.2(3)“h.”

ITEM 27. Amend paragraph **16.2(3)“p”** as follows:

p. ~~If a domestic relations order has been determined by the system to be an ADRO, before the system will accept the ADRO for current or deferred administration, the alternate payee under that final order shall be required to complete any forms required by IPERS for purposes of determining the proper tax treatment of current or future distributions to that alternate payee in accordance with federal laws governing such distributions.~~ If a retired member has a qualified domestic relations order on the member's account, the parties (the member and the alternate payee or their counsel of record) may execute a waiver of the 30-day appeal period following review and qualification of the retired member's domestic relations order, using a form approved by the system.

ITEM 28. Amend paragraph **16.2(3)“q”** as follows:

q. ~~If a member with an IPERS-approved QDRO or ADRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shall share in the distribution to the member unless the order specifically states otherwise.~~

ARC 1255C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 152B.6, the Board of Respiratory Care hereby gives Notice of Intended Action to amend Chapter 262, “Continuing Education for Respiratory Care Practitioners,” and Chapter 265, “Practice of Respiratory Care Practitioners,” Iowa Administrative Code.

The proposed amendment in Item 1 removes language that attempts to describe clinical continuing education. The Board feels that the current language is confusing and that removing part of the language would create a more concise and clearer rule.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The proposed rule in Item 2 reiterates the definition of “respiratory care as a practice” in Iowa Code section 152B.2 and provides clarification regarding what is considered the practice of respiratory therapy.

Any interested person may make written comments on the proposed amendments no later than January 14, 2014, addressed to Tony Alden, Professional Licensure Bureau, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; e-mail tony.alden@idph.iowa.gov; fax (515)281-3121.

A public hearing will be held on January 14, 2014, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Provisions for the waiver of administrative rules are set forth in Chapter 18.

After analysis and review of this rule making, no impact on jobs is expected.

These amendments are intended to implement Iowa Code sections 272C.2 and 147.76.

The following amendments are proposed.

ITEM 1. Amend subrule 262.3(2) as follows:

262.3(2) Specific criteria. Continuing education hours of credit may be obtained by:

a. Programs/activities ~~that~~ shall be of a clinical nature related to the practice of respiratory care. ~~Clinical nature subject matter is described as basic clinical processes that include information beyond the basic licensure requirements applicable to the normal development and use of the clinical respiratory care practitioner. Any communication course must involve the actual application to the practice of the respiratory care practitioner.~~

b. to f. No change.

ITEM 2. Adopt the following **new** rule 645—265.5(152B,272C):

645—265.5(152B,272C) Respiratory care as a practice. “Respiratory care as a practice” means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities that affect the pulmonary system and associated aspects of cardiopulmonary and other systems’ functions, and includes, but is not limited, to the following direct and indirect respiratory care services that are safe, of comfort, aseptic, preventative, and restorative to the patient:

1. Observing and monitoring signs and symptoms, general behavior, reactions, and general physical responses to respiratory care treatment and diagnostic testing.

2. Determining whether the signs, symptoms, behavior, reactions, or general responses exhibit abnormal characteristics.

3. Performing pulmonary diagnostic and sleep-related (polysomnography) testing.

4. Analyzing blood gases and respiratory secretions.

5. Measuring and monitoring hemodynamic and physiologic function related to cardiopulmonary pathophysiology.

6. Performing diagnostic and testing techniques in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows; and collection of specimens of blood and from the respiratory tract.

7. Administering:

- Medical gases, aerosols, and humidification, not including general anesthesia.
- Lung expansion therapies.
- Bronchopulmonary hygiene therapies.
- Hyperbaric therapy.

● Pharmacologic and therapeutic agents necessary to implement therapeutic, disease prevention, pulmonary rehabilitative, or diagnostic regimens prescribed by a licensed physician, surgeon, or other qualified health care professional prescriber.

8. Maintaining natural and artificial airways.

9. Without cutting tissues, inserting and maintaining artificial airways.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- 10. Initiating, monitoring, modifying and discontinuing invasive or noninvasive mechanical ventilation.
- 11. Performing basic and advanced cardiopulmonary resuscitation.
- 12. Performing invasive procedures that relate to respiratory care.
- 13. Implementing changes in treatment regimen based on observed abnormalities and respiratory care protocols to include appropriate reporting and referral.
- 14. Managing asthma, COPD, and other respiratory diseases.
- 15. Performing cardiopulmonary rehabilitation.
- 16. Instructing patients in respiratory care, functional training in self-care and home respiratory care management and promoting the maintenance of respiratory care fitness, health, and quality of life.
- 17. Performing those advanced practice procedures that are permitted within the policies of the employing institution and for which the respiratory care practitioner has documented training and demonstrated competence.
- 18. Managing the clinical delivery of respiratory care services through the ongoing supervision, teaching, and evaluation of respiratory care.
- 19. Transcribing and implementing a written, verbal, or telephonic order from a licensed physician, surgeon, or other qualified health care professional prescriber pertaining to the practice of respiratory care.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective December 10, 2013, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .10%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 1249C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Pursuant to the authority of 2013 Iowa Code section 15.106A and 2013 Iowa Acts, House File 648, section 9, the Economic Development Authority hereby adopts new Chapter 56, “Employee Stock Ownership Plan (ESOP) Formation Assistance,” Iowa Administrative Code.

In 2013 Iowa Acts, House File 648, the General Assembly appropriated \$500,000 to the Authority for purposes of providing financial assistance in the formation of employee stock ownership plans (ESOPs). These rules establish a program to provide such assistance and describe the manner in which the Authority intends to implement and administer the program.

Notice of Intended Action for these rules was published in the September 18, 2013, Iowa Administrative Bulletin as **ARC 1021C**. The Economic Development Authority received no public comments on the rules. These rules are identical to those published under Notice.

The Economic Development Authority Board adopted these rules on November 22, 2013, at the Board’s monthly meeting.

After analysis and review of this rule making, no negative impact on jobs has been found, and the Authority finds that the new program is likely to substantially benefit the Iowa economy by helping retain businesses in Iowa and by transferring the wealth-producing capacity of an ESOP to its employee owners.

These rules are intended to implement 2013 Iowa Acts, House File 648.

These rules will become effective on January 29, 2014.

The following amendment is adopted.

Adopt the following new 261—Chapter 56:

CHAPTER 56

EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

261—56.1(85GA, HF648) Purpose. The authority is authorized to provide financial and technical assistance to businesses interested in establishing an employee stock ownership plan (ESOP). The purpose of this chapter is to create a program that will assist a business by (1) helping to determine whether an ESOP is a feasible form of ownership and (2) providing assistance to reduce the cost of forming an ESOP when it is feasible.

261—56.2(85GA, HF648) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

“*Applicant*” means a business applying for assistance under the program.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Business*” means a corporation eligible to become a qualified Iowa ESOP.

“*Director*” means the director of the authority.

“*Financial assistance*” means a payment made by the authority to an applicant approved for funding under the program.

“*Program*” means the ESOP formation assistance program established pursuant to this chapter.

“*Qualified Iowa ESOP*” means the same as defined in the department of revenue’s rules for the determination of net income at 701—subrule 40.38(10).

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

261—56.3(85GA, HF648) Program description.

56.3(1) Amount, form, and timing of assistance. The program provides financial assistance to businesses interested in establishing an ESOP. An applicant to the program may be approved for financial assistance in an amount equal to 50 percent of the cost incurred for obtaining a feasibility study conducted by an independent financial professional. The total amount of financial assistance provided to an applicant will not exceed \$25,000. The financial assistance may be provided in two tranches. The first tranche will be provided as a reimbursement of 25 percent of the cost of a feasibility study and will be remitted upon completion of the feasibility study. The second tranche will be provided as a reimbursement of 25 percent of the cost of the feasibility study and will be remitted only upon completion of an ESOP formation. A business that does not successfully complete the formation of an ESOP will not receive the second tranche. A business will be required to provide to the authority documentation establishing the costs incurred and the successful completion of all necessary transactions.

56.3(2) Application.

a. Each fiscal year in which funding is available, the authority will accept applications for assistance under the program and make funding decisions on a rolling basis.

b. Information on submitting an application under the program may be obtained by contacting the economic development authority. The contact information is:

Iowa Economic Development Authority
Office of General Counsel
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
businessfinance@iowa.gov
<http://iowaeconomicdevelopment.com/>

56.3(3) Approval of assistance. The authority, with the assistance of an ESOP advisory panel, will consider, evaluate, and recommend applications for financial assistance under the program. The ESOP advisory panel will consist of individuals selected by the director who have demonstrated expertise in the formation and operation of ESOPs. Authority staff and the members of the advisory panel will review applications for financial assistance and score the applications according to the criteria described in rule 261—56.4(85GA, HF648). Applications deemed to meet the minimum scoring criteria will be submitted to the director for a final funding decision.

56.3(4) Contract required. If the director approves an applicant for financial assistance under the program, the authority will prepare an agreement stating the terms on which the financial assistance is to be provided, and the applicant shall execute the agreement before funds are disbursed under the program.

56.3(5) Use of funds. An applicant shall use funds provided only for the purpose of reducing the cost of forming an ESOP. The authority may require documentation or other information establishing the actual costs incurred for such formation. The financial assistance shall be provided to the applicant after the costs are incurred and on a reimbursement basis.

261—56.4(85GA, HF648) Program eligibility, application scoring, and funding decisions.

56.4(1) Program eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant shall be a business interested in establishing an ESOP. To establish that this criterion is met, the applicant shall state the reasons for its interest in establishing an ESOP.

b. The applicant shall be, or be willing to become, an IRS subchapter C or subchapter S corporation. To establish that this criterion is met, the applicant shall include a copy of its articles and documentation establishing the applicable IRS election. An applicant not yet a corporation may be required to execute a letter of intent.

c. The applicant shall have a valuation that is sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide information estimating the value of the business. This information may be a good-faith estimate. The authority will not set a specific minimum valuation;

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

however, applicants are advised that a business with valuation less than \$5 million may not be considered a feasible candidate for an ESOP.

d. The applicant shall have a number of employees and a total payroll that are sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide relevant payroll information. The authority will not set a specific minimum number of employees; however, applicants are advised that a business with fewer than 25 employees may not be a feasible candidate for an ESOP.

e. The applicant shall have a cash flow level sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide relevant financial statements. The authority will not set a minimum cash flow level; however, applicants are advised that a business with cash flow less than \$500,000 may not be a feasible candidate for an ESOP.

f. The applicant is not a retail business.

g. The applicant is not a publicly traded company.

h. The applicant has not completed a feasibility study for purposes of exploring an ESOP formation.

i. The applicant has not engaged a feasibility service provider prior to July 1, 2013. An applicant who has engaged a service provider as of the time of application shall provide a copy of the engagement letter to the authority.

56.4(2) Application scoring. A business meeting the requirements of subrule 56.4(1) may apply to the authority for financial assistance under the program. The authority will review applications for completeness and engage an ESOP advisory panel for assistance in evaluating the applications. As part of the evaluation process, an applicant will be required to interview with authority staff and with members of the ESOP advisory panel about the applicant's business, future plans, and interest in forming an ESOP. Authority staff and members of the ESOP advisory panel will evaluate the applications and give them an average numerical score between 0 and 100. The numerical score will reflect the extent to which an applicant is a feasible candidate for an ESOP. In determining the numerical score, the authority and the members of the advisory panel will take into account the extent to which each applicant meets the requirements of subrule 56.4(1). The authority will keep records of the scoring process and make those records available to applicants.

56.4(3) Funding decisions. Each application, including its numerical score, will be referred to the director with a recommended funding decision. The director will make the final funding decision on each application, taking into consideration the score and the funding recommendation of the ESOP advisory panel. The director may not approve funding for an application that receives an average score of less than 50 points.

261—56.5(85GA, HF648) Contract required. Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority. The agreement shall establish the terms on which the financial assistance is to be provided.

These rules are intended to implement 2013 Iowa Acts, House File 648, section 9.

[Filed 12/3/13, effective 1/29/14]

[Published 12/25/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/13.

ARC 1252C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.2, 16.51, and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

IOWA FINANCE AUTHORITY[265](cont'd)

The purpose of these amendments is to update the rules to provide for a broader range of lending options for affordable multifamily rental housing development and to eliminate programs that are no longer used.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 30, 2013, as **ARC 1144C**. The Authority received no public comment on the proposed amendments. These amendments are identical to those published under Notice of Intended Action.

The Iowa Finance Authority adopted these amendments on December 4, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.51.

These amendments will become effective on January 29, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 265—3.5(16) as follows:

265—3.5(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program. ~~There are three categories of loans under this program: preservation of affordable housing, low-income housing tax credits, and substantial rehabilitation of nonrestricted projects.~~

3.5(1) Projects eligible for assistance must meet the following criteria, ~~in addition to any specific requirements applicable to a particular category of loan as set forth in rule 265—3.6(16), 265—3.7(16), 265—3.8(16), or 265—3.9(16), as applicable:~~

a. Both a demonstrated market need for the units must exist and the project must be in a good location, as determined by the authority in its sole discretion.

b. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the assistance.

c. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

d. The maximum loan term is 24 months for construction financing and 40 years for permanent financing.

e. ~~The required debt service is 1.25 to 1. Loan to value ratio will be considered. The authority may, in limited cases, change the required debt service ratio. Such decision will be made in the sole discretion of the authority. At least 75 percent of the units must be restricted to tenants whose income is at or below 80 percent of the area median income and have rents that are affordable.~~

f. ~~Interest rates will be set by the authority, in its sole discretion. Projects must have at least five units.~~

g. ~~Except as permitted in the case of loans made pursuant to rule 265—3.8(16), loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.~~

h. Construction and permanent financing may be awarded to projects under the program.

i. Borrowers must covenant to observe certain compliance measures, including a recorded agreement to ensure long-term affordability.

j. A title guaranty certificate from the authority's title guaranty division is required on all loans, unless specifically waived by the authority.

k. A local contributing effort, consistent with Iowa Code section 16.4(3), in an amount of up to 1 percent of the proposed loan may be required by the authority, if feasible, for loans made under ~~division I of this chapter~~. If a local contributing effort is required, evidence of such local contributing effort shall be presented to the authority.

l. The authority may require a change of management or general partner ~~and may refer applicants to other financing options, such as tax-exempt bonds or tax credits, when appropriate.~~

m. FHA-insured loans may be available through the Multifamily Accelerated Processing (MAP) of HUD, if the authority is an approved MAP lender at the time of the loan closing. The authority may require or suggest such a MAP loan for any and all projects applying for assistance. In addition, the authority may participate in the HUD Risk-Sharing Program and may suggest or require such a loan for any and all projects applying for assistance.

IOWA FINANCE AUTHORITY[265](cont'd)

~~n. Grant funds may be available, in the sole discretion of the authority, if the authority determines that such funds are necessary for the continued financial viability of the project.~~

~~o. Recipients must execute such documents and instruments, and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.~~

~~3.5(2) Loan Maximum loan fees are as follows:~~

~~a. Commitment fee (construction period) - 1.0 percent of total development costs.~~

~~b. Commitment fee (permanent loan) - 2.0 percent of loan amount.~~

~~c. Inspection fee (construction period) - ~~0.5 percent of loan amount~~ \$500 per inspection; inspections will typically occur with each draw on a monthly basis during construction.~~

~~d. Application fee - 0.3 percent of proposed loan amount.~~

~~e. Asset management fee - calculated as \$25 per unit × number of total project units; submitted annually on or before January 31.~~

The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

ITEM 2. Rescind and reserve rules ~~265—3.6(16), 265—3.7(16), 265—3.9(16) and 265—3.12(16).~~

ITEM 3. Rescind and reserve 265—Chapter 3, Division II, rules ~~265—3.20(16) to 265—3.27(16).~~

ITEM 4. Rescind and reserve 265—Chapter 3, Division III, rules ~~265—3.31(16) to 265—3.37(16).~~

[Filed 12/4/13, effective 1/29/14]

[Published 12/25/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/13.

ARC 1253C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” 16.5(1)“m,” and 16.54(5), the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of this amendment is to bring the rules relating to the Military Home Ownership Assistance Program into compliance with 2013 Iowa Code section 16.54.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on October 30, 2013, as **ARC 1141C**. The Authority received no public comment on the proposed amendment. This amendment was also Adopted and Filed Emergency and published as **ARC 1142C** on the same date. This amendment is identical to that published under Notice of Intended Action.

The Iowa Finance Authority adopted this amendment on December 4, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 16.54.

This amendment will become effective on January 29, 2014, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 27.3(2) as follows:

27.3(2) Financed home purchases.

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's home buyer mortgage programs if the service member qualifies for it; provided, however, that notwithstanding the foregoing, a service member may utilize a mortgage loan that is not made pursuant to one of the authority's home buyer mortgage programs which is from a lender approved

IOWA FINANCE AUTHORITY[265](cont'd)

to facilitate MHOA assistance if such mortgage loan has an annual percentage rate that is at least 25 basis points lower than the most nearly equivalent loan offered by participating lenders on the same date pursuant to one of the authority's home buyer mortgage programs. If the service member does not qualify for one of the authority's home buyer mortgage programs, another permanent, fully amortizing mortgage loan may be used.

b. to d. No change.

[Filed 12/4/13, effective 1/29/14]

[Published 12/25/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/13.

ARC 1250C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts an amendment to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVI, No. 9, p. 1100, on October 30, 2013, as **ARC 1162C**.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes shall be 5 percent for the calendar year 2014 (0.4% per month). The Department shall also pay interest at the 5 percent rate on refunds. The interest rate for calendar years 2010-2013 was also 5 percent (0.4% per month).

This amendment is identical to that published under Notice of Intended Action.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 421.7.

This amendment will become effective January 29, 2014, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendment is adopted.

Adopt the following **new** subrule 10.2(33):

10.2(33) Calendar year 2014. The interest rate upon all unpaid taxes which are due as of January 1, 2014, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2014. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2014. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2014.

[Filed 12/4/13, effective 1/29/14]

[Published 12/25/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/25/13.

AGENCY	RULE	DELAY
Educational Examiners Board[282]	25.3(1) [IAB 11/13/13, ARC 1170C]	Effective date of December 18, 2013, delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held December 10, 2013. [Pursuant to §17A.8(9)]
Veterans Affairs, Iowa Department of[801]	amendments to ch 10 [IAB 10/30/13, ARC 1157C]	Effective date of December 4, 2013, delayed 70 days by the Administrative Rules Review Committee at its meeting held November 8, 2013. [Pursuant to §17A.4(7)] At its meeting held December 10, 2013, the Committee lifted the delay, effective December 11, 2013.