

January 17, 1963.
Departmental Rules Review.

House File 17
By MOWRY, CARSTENSEN
and DUFFY.

House of amended 1-28
Senate Judiciary 1, 1-31
Passed House, Date 1-30-63

Passed Senate, Date 3-28-63

Vote: Ayes 104 Nays 0

Vote: Ayes 50 Nays 0

Approved 5-16-63

*Passed
for committee
amendment to 5/16
99-0*

*Judiciary 1 Pass 3/14
Committee appointed
assists on details 4/4
amendment to 4/5
Conf. Com. appointed
4/8*

A BILL FOR

An Act relating to rules of administrative agencies.

Be It Enacted by the General Assembly of the State of Iowa:

*Conference Committee
Report - Senate
amendment attached
and passed on
amended 4/30
House accepted
committee report
Conf. Com. Report
579 P1231*

- 1 Chapter seventeen A (17A), Code 1962, is hereby repealed and
- 2 sections one (1) through eight (8) of this Act are enacted in
- 3 lieu thereof:

1 Section 1. As used in this Act:

2 1. "Administrative agency" or "agency" means any state board,
3 commission, bureau, division, officer, or department which has
4 statewide jurisdiction, except those in the legislative or
5 judicial departments.

6 2. "Person" includes individuals, associations, partnerships,
7 and corporations.

8 3. "Rule" means any rule, regulation, order, or standard, of
9 general application or the amendment, supplement, or revision of
10 any rule, regulation, order, or standard of general application,
11 and rules of administrative procedure issued by any agency under
12 authority of law.

13 "Rule" does not include rules or regulations relating solely
14 to the internal operation of the agency nor rules adopted re-
15 lating to the management, discipline or release of any person
16 committed to any state institution, nor rules of an agency which
17 may be necessary during emergencies such as floods, epidemics,
18 invasion, or other disasters.

19 4. "Temporary rule" means a rule which has a duration of no
20 longer than six months.

1 Sec. 2. Any agency empowered by law to make rules shall sub-
2 mit a copy of each proposed rule, in the style and form pre-
3 scribed by the code editor, to the attorney general who shall
4 within twenty (20) days after receiving such copy give to the
5 agency in writing his opinion on the form and legality of the
6 proposed rule.

7 If the attorney general fails to render an opinion within
8 twenty (20) days, the agency may proceed as if an opinion had
9 been given by attaching to the copy a statement of the date on
10 which the proposed rule was submitted to the attorney general for
11 his opinion.

1 Sec. 3. Three (3) copies of all rules proposed, each with a
2 copy of the attorney general's opinion or statement as required
3 by section two (2) of this Act attached thereto, shall be filed
4 with the secretary of state. Temporary rules shall in addition
5 to filing with the secretary of state be published in a newspaper
6 of general state circulation or a newspaper having circulation in
7 the territory affected. No rule shall become effective until
8 thirty (30) days after such filing unless a later date is speci-
9 fied in the rule. The secretary of state shall endorse upon the
10 copies of rules so filed the date of filing and deposit and index
11 one copy in the files of his office, transmit one (1) copy to the
12 code editor, and transmit one (1) copy to the legislative
13 research committee.

1 Sec. 4. All rules hereafter filed as provided in section
2 three (3) of this Act shall be referred by the legislative
3 research committee to the speaker of the house and the president

4 of the senate of the next regular session of the general assembly
5 who shall refer rules to the appropriate committees of the
6 general assembly.

7 Nothing contained herein shall adversely affect the substan-
8 tive rights of any person arising out of any rule adopted by any
9 agency, including the right to review by the courts. Reporting
10 of rules to the general assembly or inaction by the general
11 assembly on rules reported shall not be construed as approval or
12 enactment of the rules by the general assembly.

1 Sec. 5. Each agency shall, within ten (10) days of filing with
2 the secretary of state, mail a copy of each rule filed to the
3 office of the clerk of the supreme court, to the office of the
4 clerk of each district court, and to any person requesting same.

1 Sec. 6. Any group of twenty (20) or more persons substan-
2 tially interested or affected in their person or property by a
3 rule adopted by an agency may petition for a reconsideration of
4 such rule or for an amendment or modification thereof by filing
5 two (2) copies of a petition with the attorney general. Such
6 petition shall set forth a clear, concise description of the
7 facts and the grounds upon which such action is sought. Upon
3 filing of such petition, the attorney general shall forthwith
9 transmit one (1) copy of the petition to the agency which shall
1 grant to the petitioners a public hearing within sixty (60) days.
The agency shall give the petitioners twenty (20) days notice
2 by certified mail of the time and place of such hearing.

1 Sec. 7. Each agency promulgating professional and regulatory
2 examining and licensing rules and regulations of limited applica-
3 tion shall cause the same to be published in pamphlet form.

1 Sec. 8. Nothing in this chapter shall be construed as giving

2 any additional power to any agency to make rules.

1 Sec. 9. Section fourteen point three (14.3), Code 1962, is
2 hereby amended by adding the following subsection:

3 "Prescribe a uniform style in which administrative rules shall
4 be prepared, and a standard form to be used in filing rules pur-
5 suant to chapter seventeen A (17A) of the Code. Such form shall
6 contain a provision for a reference to be made by the agency for
7 each rule proposed by it to the line, sentence, section or para-
8 graph of the statute which the rule is intended to implement."

1 Sec. 10. Section fourteen point thirteen (14.13), Code 1962,
2 is hereby amended by inserting in line two (2) after the word
3 "Code" the words "or the Iowa departmental rules".

1 Sec. 11. Chapter fourteen (14), Code 1962, is hereby amended
2 by adding the following section:

3 "The volume of rules and regulations published by the code
4 editor shall be sold and distributed by the superintendent of
5 printing in the same manner as Codes and session laws."

1 Sec. 12. Section eighty-nine point four (89.4), Code 1962,
2 is hereby amended by striking from line eight (8) the words "and
3 regulations".

1 Sec. 13. Section ninety-six point eleven (96.11), Code 1962,
2 is hereby amended as follows:

3 1. Amend subsection one (1) by striking from lines ten (10),
4 eleven (11) and twelve (12) the words "publication in the manner,
5 not inconsistent with the provisions of this chapter, which the
6 commission shall prescribe" and inserting in lieu thereof
7 "compliance with chapter seventeen A (17A) of the Code".

8 2. Amend subsection two (2) as follows:

9 a. By striking from lines five (5), six (6), seven (7) and

10 eight (8) the words "General rules shall become effective ten
11 (10) days after filing with the secretary of state and publica-
12 tion in one or more newspapers of general circulation in this
13 state."

14 b. By striking from lines thirteen (13), fourteen (14), and
15 fifteen (15) the words "and shall become effective in the manner
16 and at the time prescribed by the commission".

1 Sec. 14. Section one hundred point one (100.1), subsection
2 five (5), Code 1962, is hereby amended by striking from lines
3 seven (7) and eight (8) the words "and approval thereof by the
4 attorney general".

1 Sec. 15. Section one hundred seven point twenty-five
2 (107.25), Code 1962, is hereby amended by striking all after the
3 word "concerned" in line three (3) and inserting in lieu thereof
4 a period (.)

1 Sec. 16. Section one hundred thirty-five point eleven
2 (135.11), subsection eight (8), Code 1962, is hereby amended by
3 striking all after the period (.) in line five (5).

1 Sec. 17. Sections one hundred thirty-five point thirty
2 (135.30) and one hundred thirty-five point thirty-one (135.31),
3 Code 1962, are hereby repealed.

1 Sec. 18. Sections one hundred fifty-nine point seven (159.7)
2 and one hundred fifty-nine point eight (159.8), Code 1962, are
3 hereby repealed.

1 Sec. 19. Section one hundred sixty-three point six (163.6),
2 Code 1962, is hereby repealed.

1 Sec. 20. Section one hundred seventy point thirty-eight
2 (170.38), Code 1962, is hereby amended by striking from lines
3 seven (7) and eight (8) the words "and approval thereof by

4 the attorney general”.

1 Sec. 21. Section two hundred three A point fifteen (203A.15),
2 subsection three (3), Code 1962, is hereby amended by striking
3 all after the period (.) in line six (6).

1 Sec. 22. Section three hundred twenty-two point thirteen
2 (322.13), Code 1962, is hereby amended by striking from lines
3 thirteen (13) and fourteen (14) the words “, and published in an
4 Iowa newspaper having a general circulation in this state”.

1 Sec. 23. Section three hundred twenty-eight point twelve
2 (328.12), subsection three (3), Code 1962, is hereby amended by
3 striking the last sentence.

1 Sec. 14. Section four hundred thirty-four point eleven
2 (434.11), Code 1962, is hereby amended by striking all after the
3 word “requirements” in line ten (10), and inserting in lieu
4 thereof “in the manner prescribed by chapter seventeen A (17A)
5 of the Code.”

1 Sec. 25. Section four hundred thirty-eight point ten
2 (438.10), Code 1962, is hereby amended by striking all after the
3 word “requirements” in line ten (10) and inserting in lieu
4 thereof “in the manner prescribed by chapter seventeen A (17A) of
5 the Code.”

1 Sec. 26. The code editor may notify any agency whose rules
2 are not in the proper style and form as prescribed by him. Six
3 (6) months after an agency receives such notification, the rules
4 of that agency shall be of no further force and effect unless
5 redrafted in the prescribed style and form and filed with the
6 secretary of state and the code editor.

1 Sec. 27. This Act, being deemed of immediate importance,
2 shall take effect and be in force from and after its publication

- 3 in the, a newspaper published in,
- 4 Iowa, and in the, a newspaper published in
- 5, Iowa.

EXPLANATION OF HOUSE FILE 17

The purpose of this bill is to make uniform the manner in which administrative rules are adopted, reviewed, published and distributed.

1 Amend House File 17 as follows:
2 1. Amend Section two (2) by striking the comma
3 (,) after the word "days" in line eight (8) and by in-
4 serting thereafter the words "after receiving such copy,".
5 2. Amend Sec. three (3) by striking the word and
6 figure "three (3)" in line one (1) and by inserting in
7 lieu thereof the word and figure "ten (10)".
8 3. Amend Sec. three (3) by striking all of
9 line eight (8) and by inserting in lieu thereof the
10 following: "thirty (30) days after such filing, but a
11 later effective date may be speci-".
12 4. Amend Sec. three (3) by striking after the
13 word "filing" the words "and deposit and" in line ten
14 (10), and by inserting in lieu thereof the words "and
15 the date of the attorney general's opinion, if any, and"
16 5. Amend Sec. three (3) by striking the words and
17 figure "one (1) copy" from line twelve (12) and by inserting
18 in lieu thereof the words and figures "eight (8) copies".
19 6. Amend Sec. four (4) by inserting after the
20 word "Reporting" in line nine (9) the words "or referral".
21 7. Amend Sec. four (4) by inserting after the
22 word "reported" in line eleven (11) the words "or referred".
23 8. Amend Sec. five (5) by striking all after line
24 two (2) and by inserting in lieu thereof the following:
25 "office of the clerk of the supreme court and to the office
26 of the clerk of each district court. The agency shall mail
27 a copy of such rule to any person requesting same, within
28 ten (10) days after receipt of such request. Failure to
29 comply with this section shall not affect the validity of
30 any rule unless such failure shall have been willful."
31 9. Amend Sec. six (6) by striking after the word
32 "Any" in line one (1) the words "group of twenty (20) or
33 more persons" and by inserting in lieu thereof the word
34 "person".
35 10. Amend Sec. six (6) by inserting after the word
36 "interested" in line two (2) the word "in".
37 11. Amend Sec. six (6) by striking the word "their"
38 from line two (2) and by inserting in lieu thereof the
39 word "his".
40 12. Amend Sec. seven (7) by striking the words
41 "and regulations" in line two (2) and by inserting in lieu
42 thereof the words "or rules".
43 13. Amend Sec. ten (10) by striking the word "or"
44 in line three (3) and by inserting in lieu thereof the
45 word "and".

46 14. Strike all of Sec. twenty-four (24) and
47 insert in lieu thereof:
48 "Sec. 24. Section four hundred thirty-four point
49 eleven (434.11), Code 1962, is hereby amended as follows:
50 "1. In lines six (6) and seven (7), strike the
51 words 'from the time they are so communicated' and insert
52 in lieu thereof the following: 'as provided in chapter
53 seventeen A (17 A) of the Code'.
54 "2. Strike all of said section after line ten (10)
55 and insert in lieu thereof the following: 'in the manner
56 prescribed by chapter seventeen A (17 A) of the Code.'"
57 15. Strike all of Sec. twenty-five (25) and insert
58 in lieu thereof:
59 "Sec. 25. Section four hundred thirty-eight point
60 ten (438.10), Code 1962, is hereby amended as follows:
61 "1. In line seven (7), strike the words 'from
62 the time they are so communicated' and insert in lieu
63 thereof the following: 'as provided in chapter seventeen A
64 (17 A) of the Code'.
65 "2. Strike all of said section after the word
66 'requirements' in line ten (10) and insert in lieu thereof
67 the words 'in the manner prescribed by chapter seventeen A
68 (17 A) of the Code.'"
69 16. Amend Sec. twenty-seven (27) by striking all
70 after line two (2) and inserting in lieu thereof: "in
71 The Muscatine Journal, a newspaper published in Muscatine,
72 Iowa, and in The Mount Pleasant News, a newspaper published
73 in Mount Pleasant, Iowa."

*Adopted
1-30-63*

*Committee
Rules 1-1*

*Adopted
1-30-63*

Filed
January 28, 1963.

COMMITTEE ON DEPARTMENTAL
RULES REVIEW,
STANLEY of Muscatine, *Chairman.*

HOUSE FILE 17

*House
con
on Div. 1
4/1*

1 Amend House File 17 as follows:
 2 1. Insert after section 3 the following new section:
 3 "Any rule hereafter filed as provided in section three (3) of
 4 this Act during the last ten (10) days of any legislative session
 5 or during the legislative interim following, may be reviewed by
 6 the legislative research committee at any time during that
 7 interim. The research committee shall review such rule to deter-
 8 mine if the legislative intent is being correctly followed. Upon
 9 concluding the review of any rule, if the research committee
 10 shall determine by resolution adopted by the affirmative vote of
 11 two-thirds (2/3) of the members of the committee that such rule
 12 contravenes the legislative intent, the committee shall transmit
 13 a copy of the resolution to the agency which filed the rule.
 14 Such agency shall immediately suspend such rule and all proceed-
 15 ings pending thereunder until such time as the rule is reviewed
 16 and determination is made thereon by the general assembly at the
 17 next succeeding session. Copies of such rule shall be trans-
 18 mitted to the speaker of the house and the president of the
 19 senate prior to the convening of the next succeeding general
 20 assembly. If the legislature shall fail to adopt a resolution
 21 requiring the abrogation or revision of the rule, the rule shall
 22 again be effective as of the adjournment sine die of the session
 23 of the general assembly."
 24 2. Amend section 4 by inserting in line 2 after the
 25 word "Act" the words "including rules suspended as provided in
 26 subsection one (1) of this amendment".
 27 3. Amend section 4 by adding in line 6 after the word
 28 "assembly." the following:
 29 "Each committee shall review all rules referred to it to deter-
 30 mine if such rules contravene the legislative intent and shall
 31 report its findings to the general assembly.
 32 "If the general assembly shall find by concurrent resolution
 33 that the rule is without the legislative intent, the agency which
 34 shall have filed the rule shall abrogate the rule and the rule
 35 shall not thereafter be refiled. If the general assembly shall,
 36 in like manner, find that the rule may be revised to bring such
 37 rule within the legislative intent, the agency shall either abro-
 38 gate or revise and refile the rule."
 39 4. Add the following new section:
 40 "If any provision of this Act or the application thereof to
 41 any person shall be invalid, such invalidity shall not affect
 42 the provisions or application of this Act which can be given
 43 effect without the invalid provisions or application, and to this
 44 end the provisions of the Act are declared severable."
 45 5. Amend by renumbering the sections in conformity with this
 46 amendment.

Filed
March 11, 1963.

*Withdrawn
3/28*

By TURNER.

HOUSE FILE 17

*House
conceded
on Div. 1
4/1*

1 Amend House File 17 as follows:
 2 1. Strike all of lines one (1) through three (3) after the
 3 enacting clause and insert in lieu thereof the following:
 4 "Chapter seventeen A (17A), Code 1962, is hereby amended by
 5 striking all of sections seventeen A point one (17A.1) through
 6 seventeen A point ten (17A.10), inclusive, and sections one (1)
 7 through twelve (12) of this Act are enacted in lieu thereof:
 8 2. Strike all of sections two (2), three (3) and four (4)
 9 and insert in lieu thereof the following:
 10 "Sec. 2. There is hereby created a bipartisan legislative com-
 11 mittee of six members which shall be designated the depart-
 12 mental rules review committee. The committee shall be composed
 13 of three members of the senate to be appointed by the president
 14 of the senate and three members of the house to be appointed by
 15 the speaker of the house. Members shall be appointed prior to
 16 the adjournment of each regular biennial session and shall
 17 serve for two-year terms beginning May 1 after the convening of
 18 the general assembly in regular session, provided, however,
 19 that members shall serve until their successors are appointed.
 20 Vacancies on the committee shall be filled by the original
 21 appointing authority. A vacancy shall exist whenever a com-
 22 mittee member ceases to be a member of the general assembly.
 23 "Sec. 3. The committee shall choose a chairman from its mem-
 24 bers and prescribe its rules of procedure. Regular meetings of
 25 the committee shall be held at the seat of government on the
 26 second Tuesday in July and on the second Tuesday of each second
 27 month thereafter during the interim between regular sessions to
 28 review all proposed departmental rules and make recommendations
 29 to the department proposing each such rule. The chairman may
 30 call special meetings at any time and at any place in the state

*House
refused
to concur
on Div. 2
4/1*

*House
refused
to concur
on Div. 3,
4/1*

31 and cause notice thereof to be published in two newspapers of
32 general circulation in the area affected by the rule. All said
33 meetings, regular or special, shall be open to the public and
34 any interested person may be heard and present evidence. If
35 any agency shall conduct public hearings in regard to any
36 rules such agency shall notify the members of the departmental
37 rules review committee ten (10) days prior to such meeting.

38 "Sec. 4. Members of the committee shall receive a per diem of

39 thirty dollars per day for each day in attendance and shall
40 be reimbursed for the actual necessary expenses incurred by
41 them in the discharge of their duties. All such expenses and
42 expense of publication shall be provided for by the budget and
43 financial control committee from the contingent fund provided
44 for the budget and financial control committee.

*House
concurred
on Div. 4.
4/1*

45 "Sec. 5. Any agency empowered by statute to make rules shall
46 submit a copy of each proposed rule, or amendment thereto,
47 citing their authority and the statute the rule is intended to
48 implement and in the style and form prescribed by the code
49 editor, to the attorney general who shall within thirty (30)
50 days after receiving such copy give to the agency in writing
51 his opinion on the form and legality of the proposed rule.
52 Unless within the aforesaid thirty (30) day period the
53 attorney general renders his opinion upholding the form and
54 legality of the proposed rule, the proposed rule shall have no
55 further force or effect.

*House
refused to
concur
on Div. 5
4/1*

56 "Sec. 6. Every agency shall, after receiving a favorable
57 opinion from the attorney general on a proposed rule, submit
58 six (6) copies of the proposed rule, together with a copy of
59 the attorney general's opinion, to the chairman of the depart-
60 mental rules review committee. If the committee finds objec-
61 tion to such rule, it shall report such finding to the depart-
62 ment proposing such rule together with its suggestion of how
63 the objectionable part may be removed. The agency shall re-
64 ceive a report from said committee prior to filing the proposed
65 rule with the secretary of state.

66 "Sec. 7. Four (4) copies of all rules proposed, each with a
67 copy of the attorney general's opinion attached thereto, shall
68 be filed with the secretary of state. Temporary rules shall
69 become effective upon such filing. Other rules, unless other-
70 wise provided for, shall not become effective until thirty (30)
71 days after such filing, but a later effective date may be
72 specified in the rule. The secretary of state shall endorse
73 upon the copies of rules so filed the date of filing and the
74 date of the attorney general's opinion and index one (1) copy
75 in the files of his office, transmit one (1) copy to the code
76 editor, and transmit two (2) copies to the chairman of the de-
77 partmental rules review committee.

*filed 3/13
Doran, etc*

78 "Sec. 8. All rules hereafter filed as provided in section
79 seven (7) of this Act, with the committee's report attached
80 thereto, shall be referred by the chairman of the departmental
81 rules review committee to the speaker of the house and the
82 president of the senate of the next regular session of the
83 general assembly who shall refer rules to the appropriate com-
84 mittees of the general assembly.

85 "If the committee, to which a departmental rule has been re-
86 ferred, finds objection to such rule, it may report such find-
87 ing to the general assembly together with its suggestion for the
88 general assembly to proceed by law to overcome the objection.
89 Any committee of the general assembly may at any time consider
90 any departmental rule previously filed and, if it finds such
91 rule objectionable, proceed as above.

92 "Nothing contained herein shall adversely affect the substan-
93 tive rights of any person arising out of any rule adopted by

94 any agency, including the right to review by the courts. Re-
95 porting or referral of rules to the general assembly or in-
96 action by the general assembly on rules reported or referred
97 shall not be construed as approval or enactment of the rules by
98 the general assembly."

99 3. Strike all of section fifteen (15) after the word "striking"
100 in line two (2) and insert in lieu thereof the following: "from
101 lines three (3), four (4) and five (5) the words 'take effect,
102 unless otherwise designated in the order, after publication'
103 and insert in lieu thereof the words 'be published'."

104 4. Insert the following new section after section twenty-
105 six (26):

106 "In all cases where departmental rules have been filed by the
107 administrative agencies pursuant to the provisions of section
108 seventeen A point two (17A.2) of the Code the effect given such
109 rules by such filing shall not have the force and effect of
110 legislative enactment, anything in section seventeen A point
111 two (17A.2) of the Code to the contrary notwithstanding, and
112 they shall be subject to action thereon by any subsequent gen-
113 eral assembly."

114 5. Renumber the sections.

Filed
March 12, 1968.

adopted

By DORAN, BENEKE, FULTON,
O'MALLEY, VANCE and WALKER.