

FEB 9 2005
Place On Calendar

HOUSE FILE 247
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 33)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for negotiated rulemaking.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 247

1 Section 1. NEW SECTION. 17A.4B NEGOTIATED RULEMAKING.

2 1. An agency shall create a negotiated rulemaking group if
3 required by statute. An agency may, on its own motion or upon
4 request, create a negotiated rulemaking group if the agency
5 determines that a negotiated rulemaking group can adequately
6 represent the interests that will be significantly affected by
7 a proposed rule and that it is feasible and appropriate in the
8 particular rulemaking. Notice of the creation of a negotiated
9 rulemaking group shall be published in the Iowa administrative
10 bulletin. Upon establishing a negotiated rulemaking group,
11 the agency shall also specify a time frame for group
12 deliberations.

13 2. Unless otherwise provided by statute, the agency shall
14 appoint a sufficient number of members to the group so that a
15 fair cross section of opinions and interests regarding the
16 proposed rule is represented. One person shall be appointed
17 to represent the agency. The group shall select its own
18 chairperson and adopt its rules of procedure. All meetings of
19 the group shall be open to the public. A majority of the
20 membership constitutes a quorum. Members shall not receive
21 any per diem payment but may be reimbursed for all necessary
22 expenses. Any vacancy shall be filled in the same manner as
23 the initial appointment.

24 3. Prior to the publication of a notice of intended
25 action, the group shall consider the terms or substance of the
26 rule proposed by the agency and shall attempt to reach a
27 consensus concerning the proposed rule.

28 4. If a group reaches a consensus on a proposed rule, the
29 group shall transmit to the agency a report containing the
30 consensus on the proposed rule. If the group does not reach a
31 consensus on a proposed rule within the specified time frame,
32 the group shall transmit to the agency a report stating that
33 inability to reach a consensus and specifying any areas in
34 which the group reached a consensus. The group may include in
35 a report any other information, recommendations, or materials

1 that the group considers appropriate. Any group member may
2 include as an addendum to the report additional information,
3 recommendations, or materials. A report issued under this
4 subsection shall not be considered final agency action for
5 purposes of judicial review.

6 5. Unless otherwise provided by statute, following a
7 negotiated rulemaking group consideration of a proposed rule,
8 the agency may commence rulemaking as provided in section
9 17A.4. The group is automatically abolished upon the agency's
10 adoption of the rule pursuant to the provisions of section
11 17A.5.

12 EXPLANATION

13 If required by statute, this bill requires an agency to
14 create an ad hoc group to review proposed rules prior to
15 commencing a rulemaking proceeding. Where a statute does not
16 require this review, the bill allows an agency to create such
17 a review group. Members are appointed by the agency and the
18 composition must adequately represent a fair balance of the
19 interests affected by the rule. Once such a group is created,
20 the agency may only commence rulemaking after the group has
21 considered the proposed rule in question.

22 The bill is based on similar provisions found in the
23 federal Administrative Procedures Act.

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Chair: Roberts
Quirk
Raecker

HSB 33
STATE GOVERNMENT

Succeeded By
HOUSE FILE SF 0247
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON ELGIN)

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Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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