

**REPORT OF THE
ADMINISTRATIVE RULES AND REGULATIONS COMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

November 21, 2008

Mr. Co-Chairmen:

The Committee on Administrative Rules and Regulations met at 1:30 p.m. on Thursday, November 6, 2008, in Room 151 of the State Capitol. The following committee members attended: Senator John Paul Capps and Representative Daryl Pace, Chairs; Senators Percy Malone; Representatives Johnny Key and Steve Harrelson. Other legislators attended as follows: Representatives Nancy Blount, Clark Hall, Stan Berry, Monty Davenport, and Lindsley Smith. Representatives-Elect attended as follows: Duncan Baird, Stephanie Malone, and Mary Lou Slinkard.

1. The Committee completed its review of the following rules filed pursuant to A.C.A. § 10-3-309:

CONTRACTORS LICENSING BOARD (Greg Crow, Vicki Pickering)

- a. Definition of Own Residence

DEPARTMENT OF CORRECTION (Bobby Smith)

- a. AR 804; Inmate Records

DEPARTMENT OF ENVIRONMENTAL QUALITY (Teresa Marks, Ellen Carpenter)

- a. Regulation No. 8; Administrative Procedures

**DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR DIVISION
(Teresa Marks, Mike Bates)**

- a. Regulation 18; Arkansas Air Pollution Control Code
- b. Regulation 19; Arkansas Plan of Implementation for Air Control
- c. Regulation 26; Arkansas Operating Air Permit Program

**DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE
DIVISION (John Theis)**

- a. Rule 2008-4; Natural Gas Severance Tax Rules

**BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS (Jim
Stephens)**

- a. Administration and Fees and Costs

**DEPARTMENT OF HEALTH, RADIATION CONTROL SECTION
(Bernard Bevill)**

- a. Radiologic Technology Licensure

**DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY
SERVICES (Melissa Singleton Stone and John Zalenski)**

- a. Revisions to Remove the Requirement for Local Background
Checks for Approval of any Type Foster or Adoptive Home

**DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Marilyn
Strickland)**

- a. Official Notice DMS-2008-A-10, DMS-2008-AR-5, DMS-2008-
G-5, DMS-2008-H-11, DMS-2008-L-11, DMS-2008-OO-9, DMS-
2008-KK-10, DMS-2008-R-11; Vaccines for Children Program
- b. Clarification of Provisional Rate Policy

INSURANCE DEPARTMENT (Amanda Capps Rose)

- a. Rule 64; Actuarial Opinion and Memorandum (Single-State)
- b. Rule 64A; Actuarial Opinion and Memorandum (Multi-State)

ARKANSAS STATE LIBRARY (Carolyn Ashcraft)

- a. ASL General Improvement Fund Grant Rules and Regulations

STATE BOARD OF NURSING (Fred Knight)

- a. Chapter 2; Licensure

OIL AND GAS COMMISSION (Lawrence Bengal, Maurice Rigsby)

- a. General Rule A-7; Determination of Natural Gas Well Categories for Severance Tax Purposes
- b. General Rule A-8; Reporting Requirements for Mineral Proceeds Escrow Accounts
- c. General Rule B-2; Proof of Financial Responsibility Require to be Furnished
- d. General Rule B-11; Domestic Natural Gas Wells and Conversion of Permitted Oil and Natural Gas Wells for use as Domestic Natural Gas or Fresh Water Supply Wells
- e. General Rule D-8; Monthly Natural Gas Production Reports

STATE BOARD OF PHARMACY (John Kirtley)

- a. Regulation 4; Pharmacy
- b. Regulation 8; Wholesale Distribution

ARKANSAS TEACHER RETIREMENT SYSTEM (Christa Clark)

- a. Policy No. 11-3, Qualified Domestic Relations Orders (QDROs) for Active Members; and Policy No. 11-4, Qualified Domestic Relations Orders for Retired Members

DEPARTMENT OF WORKFORCE EDUCATION (Jim Smith)

- a. Adult Education Program Policies

2. The Committee requested that the Administrative Rules Counsel give a report at the next meeting concerning the definition of "own residence" contained in the rule submitted by the **Contractors Licensing Board** as found in A.C.A. § 17-25-509(c) and A.C.A. § 17-25-513 and specifically how it would affect residency as it applies to voters.

3. The Committee referred the **Department of Health's revisions to the Arkansas Rules and Regulations for Trauma Systems** to the Senate and House Interim

Committees on Public Health, Welfare and Labor for a hearing on November 10, 2008 with a report back to the committee on December 4, 2008.

4. The committee referred the **Arkansas Teacher Retirement Systems Policy No. 9-1, Disability Retirement Policy No. 9-3, and Free Military Services Policy No. 8-7** to the Joint Public Retirement and Social Security Programs Committee for further review. The ATRS has withdrawn Policies No. 9-3 and 8-7, since the system will seek technical corrections to retirement legislation in the next legislative session on these issues. This leaves **Policy No. 9-1** which specifies the procedure for the Board of Trustees to compound the cost of living adjustment for all retirees. The rule specifies that either a simple COLA or a compound COLA shall be given each year. The Joint Public Retirement Committee was requested to report back to the Administrative Rules and Regulations Committee at its December 4, 2008 meeting.

5. The committee adopted the following procedure for scheduling a rule(s) on the agenda and for the required documents to be filed when a proposed rule is revised due to public comment:

"Before a rule may be scheduled for review at a meeting of the Administrative Rules and Regulations Committee of the Legislative Council, the following shall have occurred:

- (1) The public comment period for the rule shall have expired at least two (2) weeks before the committee meeting date;
- (2) The public hearing concerning the rule (if applicable) shall have been held at least two (2) weeks before the committee meeting date;
- (3) The agency shall submit two (2) copies of the following to the committee, if applicable:
 - (A) A revised markup of the rule indicating any changes occurring after the original filing of the rule;
 - (B) A revised summary detailing the changes to the rule occurring after the original filing of the rule; and
 - (C) A list of the each person commenting on the rule, a summary of the comment, and how the agency responded to the comment; and
- (4) The agency shall file a revised financial impact statement or statement of controversy if rule revisions or public comments have prompted changes to the agency's original statement.

If any agency fails to comply with any of the following at least two (2) weeks before a scheduled meeting date, the committee reserves the right to remove the agency from the agenda and place them on the agenda for the following month."

Respectfully submitted,

Senator John Paul Capps, Co-Chair

Representative Daryl Pace, Co-Chair