

Regulatory Analysis

Notice of Intended Action to be published: 497—Chapters 1 and 11
“Organization and General Administration”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 23

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A and 23 and Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 3, 2025
9 to 9:30 a.m.

Via virtual meeting/videoconference:
meet.google.com/hvc-wmba-kem
Or dial: 518.759.2454
Passcode: 264 086 811#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Public Information Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kimberly Murphy
Iowa Public Information Board
510 East 12th Street
Jessie M. Parker Building, East
Des Moines, Iowa 50319
Phone: 515.393.7664
Email: kim.murphy@iowa.gov

Purpose and Summary

This proposed rulemaking includes revised administrative rules based on the requirements of Executive Order 10. Chapter 1 was promulgated to provide an overview of the Board’s organization and general administration. This information is duplicative of Iowa Code chapter 23. Chapter 1 also includes requirements for advisory opinions. This chapter is proposed to be rescinded due to duplication of already existing law, and portions of the chapter related to advisory opinions are adopted as a new Chapter 11.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There is no expected additional cost to the State, government bodies, or individuals.
 - **Classes of persons that will benefit from the proposed rulemaking:**
Citizens of the State and government bodies subject to Iowa Code chapters 21 and 22 will benefit.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**

No quantitative impact is expected. The Board will still operate consistent with Iowa Code chapter 17A and the scope of authority granted pursuant to Iowa Code chapter 23.

- **Qualitative description of impact:**

No qualitative impact is expected.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs will be borne by any agency. The Board will still operate consistent with Iowa Code chapters 17A and 23.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable. The Board will still operate consistent with Iowa Code chapter 17A and the scope of authority granted pursuant to Iowa Code chapter 23.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **497—Chapter 1.**

ITEM 2. Adopt the following **new** 497—Chapter 11:

CHAPTER 11
ADVISORY OPINION PROCEDURES

497—11.1(23) Scope and applicability. This chapter applies to public information board advisory opinions.

497—11.2(23) Requirements for requesting advisory opinions.

11.2(1) Jurisdiction. The board will accept requests for advisory opinions pertaining only to Iowa Code chapters 21 and 22 or rules adopted thereunder. The board does not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

11.2(2) Who may request an advisory opinion. Any person may request an advisory opinion construing or applying Iowa Code chapters 21 and 22. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

11.2(3) Form of request. The request for an advisory opinion will pose specific legal questions and describe any specific facts relating to the questions posed. A request for an advisory opinion will be submitted in writing and on a form designated by the board. A request for an advisory opinion may also be accepted without using the designated form if the request for an advisory opinion contains the elements of information consistent with the designated form.

497—11.3(23) Processing of advisory opinions. After receiving an advisory opinion request, the board's executive director will cause to be prepared a draft advisory opinion for the board's review.

11.3(1) Same or similar issue. If the same or similar issue has been addressed in an opinion of a court, in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. However, the board may still issue an advisory opinion.

11.3(2) Delegation of duties. The executive director may delegate to designated employees of the board, at the executive director's discretion, the task of developing and presenting advisory opinions.

497—11.4(23) Timing of advisory opinions. The board will make every reasonable attempt to issue an advisory opinion within 30 days after a formal request is made.

497—11.5(23) Approval of advisory opinions. Upon an affirmative vote of a majority of the board, the executive director will issue an advisory opinion on behalf of the board. Advice contained in the board's opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances.

11.5(1) Advice on routine matters. Board staff may provide written advice on routine matters. However, such advice is not an advisory opinion.

11.5(2) Modification or reconsideration requested. A person who receives an advisory opinion may, within 30 days after the issuance of the advisory opinion, request modification or reconsideration of the advisory opinion. A request for modification or reconsideration will be deemed denied unless the board acts upon the request within 60 days of receipt of the request.

11.5(3) Modification or reconsideration by board. The board may modify or reconsider an advisory opinion on its own motion within 30 days after the issuance of an advisory opinion.

497—11.6(23) Declaratory orders. Nothing in this rule precludes a person who has received an advisory opinion or advice from petitioning for a declaratory order pursuant to Iowa Code chapter 17A. The board may refuse to issue a declaratory order to a person who has previously received an advisory opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the advisory opinion.

These rules are intended to implement Iowa Code chapters 17A and 23.