

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 361—Chapters 4 and 12
“Disbursement of Money from Civil Reparations Trust Fund”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 7D, and 668A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 668A

Public Hearing

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

November 27, 2023
12:15 p.m.

Room G9, Iowa State Capitol
1007 East Grand Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Executive Council no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Nate Ristow
Governor’s Office, Iowa State Capitol
1007 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.314.2998
Email: nate.ristow@governor.iowa.gov

Purpose and Summary

This proposed rulemaking explains the process for applying for grants from the Civil Reparations Trust Fund and the criteria the Executive Council will use to consider disbursement for the purposes of indigent civil litigation programs or insurance assistance programs.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Entities that provide indigent civil litigation or insurance assistance will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Indigent persons and Medicare-eligible individuals will benefit from the proposed rulemaking.
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:
There are minimal costs to complete the application form. The last application to the Fund was in 2016, though Iowa Legal Aid recently requested the application form.
 - Qualitative description of impact:
There is time and effort involved to complete the application form.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:

Costs are minimal since there have been no disbursements from the Fund over the last three fiscal years and no one has filed a motion to reconsider.

- Anticipated effect on state revenues:

The rulemaking will not have an impact of state revenues. The Fund balance is currently \$1,014,926. The funds are available for certain statutory purposes, and these rules do not change the availability of the funds for those purposes.

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

The costs are minimal, but the funds could better serve their intended purpose if they were directed to providers of these services directly or through other state agencies that currently support the intended purposes, without application to the Executive Council. However, that would require a statutory change, so the minimal costs imposed by this rule are reasonable to achieve the benefits.

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

Under the current statutory scheme, the costs imposed by the rule are minimal.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

The alternative discussed above is not available via rulemaking and would entail a statutory change.

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?

There is no significant impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 361—Chapter 4:

CHAPTER 4 DISBURSEMENT OF MONEY FROM CIVIL REPARATIONS TRUST FUND

361—4.1(68A) Notice of funds. The executive council provides notice of availability of money in the civil reparations trust fund in the following ways:

4.1(1) Iowa Administrative Bulletin. The executive council publishes notice of the balance in the fund in the Iowa Administrative Bulletin semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding \$10,000. If the deposit of an amount exceeding \$10,000 would cause notice within 30 days of the deposit to be published in January or July, no additional publication is necessary.

4.1(2) First-class mail. The executive council maintains a mailing list of those persons who wish to receive notice of the balance in the fund. Notice is sent semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding \$10,000 by first-class mail to all persons on the mailing list. If the deposit of an amount exceeding \$10,000 would cause notice within 30 days of the deposit to be mailed in January or July, no additional mailing is necessary. Any person may be added to the mailing list on request.

In the event that there is no money in the fund in January or July, no notice will be published or mailed.

361—4.2(668A) Applications. The executive council will accept applications for money from the fund for a period of 30 days after notice has been published in the Iowa Administrative Bulletin or sent by first-class mail. Applications will not be accepted in advance of this time period.

Application forms are available from and filed with the office of the state treasurer.

An application is timely if it is postmarked on the thirtieth day after the date of publication in the Iowa Administrative Bulletin or on the thirtieth day after the date affixed to the notice sent by first-class mail, whichever is later. The executive council may accept applications submitted after this deadline only for good cause upon motion in writing.

361—4.3(668A) Criteria. In determining whether to grant an application for money from the fund, the executive council considers the following factors:

1. The purpose for which the money will be utilized;
2. The number of people who will be served by the money;
3. The availability to the applicant of alternative sources of money;
4. The degree to which the applicant legally used the money under any prior applications.

361—4.4(668A) Disposition of applications. The executive council determines the disposition of all pending applications and notifies all applicants of the decision by first-class mail. Notice of disposition is sent to all applicants on the same date.

361—4.5(668A) Motion for reconsideration. Any applicant who is aggrieved or adversely affected by the disposition of the applicant's application may, within 15 days of the date affixed to the notice of disposition, file a motion for reconsideration in the office of the state treasurer. The motion is deemed filed when received and date-stamped by the treasurer.

361—4.6(668A) Grounds. The motion for reconsideration has to delineate the specific grounds for reconsideration. An applicant may request a contested case hearing; however, any request for a contested case hearing specifically delineates the facts in dispute to be contested and determined at the hearing.

361—4.7(668A) Procedure. The executive council rules on any pending motion for reconsideration, including a request for a contested case hearing. In the event that a request for a contested case hearing is granted, the proceeding is conducted as provided in X.5 of the Uniform Rules on Agency Procedure related to contested cases, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. The burden of proof by a preponderance of the evidence rests with the requester to establish grounds for reconsideration. The office of the attorney general will defend the decision of the executive council.

361—4.8(668A) Disbursement of money. No money will be disbursed from the fund after disposition of all applications until the time period for filing a motion for reconsideration has expired. After the

time period for filing a motion for reconsideration has expired but while a motion for reconsideration by any applicant is pending, the executive council in its discretion may disburse money from the fund to applicants who have not filed a motion for reconsideration. Money may be disbursed to applicants while a motion for reconsideration is pending only to the extent that resolution of any pending motion could not affect the disbursement of money to other applicants.

361—4.9(668A) Administrative costs. The costs of administering this fund, including any costs associated with the conduct of any contested case proceeding challenging the disbursement of money from the fund and costs for postage and copying, are billed to the fund after approval by the executive council.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 7D and 668A.

ITEM 2. Rescind and reserve **361—Chapter 12.**