

EXECUTIVE COUNCIL [361]

Adopted and Filed

The Executive Council hereby proposes to adopt new Chapter 1, “Disbursement of Money From Civil Reparations Trust Fund,” and rescind Chapter 12, “Disbursement of Money From Civil Reparations Trust Fund,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 7D, 17A and 668A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 668A.

Purpose and Summary

These proposed rules explain the process for applying for grants from the civil reparations trust fund and the criteria the Council will use to consider disbursement for the purposes of indigent civil litigation programs or insurance assistance programs.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7190C**. Two public hearings were held on January 4 and 5, 2024, at 12:15 p.m. at Room G9, Iowa State Capitol, 1007 East Grand Avenue, Des Moines, Iowa.

No one attended the hearings.

No public comments were received.

The adopted rule was changed to repromulgate as new chapter 1 instead of as chapter 4.

No other changes were made from the noticed rules.

Adoption of Rulemaking

This rulemaking was adopted by the Executive Council on May 6, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Council for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on July 3, 2024.

The following rulemaking action is proposed:

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

CHAPTER 4

DISBURSEMENT OF MONEY FROM CIVIL REPARATIONS TRUST FUND

361—1.1(68A) Notice of funds. The executive council provides notice of availability of money in the civil reparations trust fund in the following ways:

1.1(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.

1.1(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—1.2(668A) Applications.

1.2(1) 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.

1.2(2) Application forms are available from and filed with the office of the state treasurer.

1.2(3) 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—1.3(668A) Criteria. In determining whether to grant an application for money from the fund, the executive council considers the following factors:

1.3(1) The purpose for which the money will be utilized;

1.3(2) The number of people who will be served by the money;

1.3(3) The availability to the applicant of alternative sources of money;

1.3(4) The degree to which the applicant legally used the money under any prior applications.

361—1.4(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—1.5(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—1.6(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—1.7(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—1.8(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—1.9(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 chapters 17A, 7D, and 668A.

ITEM 2. Rescind and reserve 361—Chapter 12.