



Legislative Research Council

Rules Review Committee Minutes

Three hundred fortieth meeting
Tuesday
May 6, 2014

Room 413
State Capitol
Pierre, South Dakota

The three hundred fortieth meeting of the Rules Review Committee was called to order by Chair Representative Timothy Johns at 10:00 a.m. CDT, on May 6, 2014, in Room 413 at the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jim Bradford, Jean Hunhoff, and Mike Vehle (Vice Chair); and Representatives Peggy Gibson, Anne Hajek, and Timothy Johns (Chair). Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://legis.sd.gov> under "Interim."

Approval of Minutes

Representative Gibson moved, seconded by Representative Hajek, that the minutes of the December 17, 2013, and March 12, 2014, meetings be approved. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Staff Report

Mr. Doug Decker distributed an updated "Interim Rules Review Assignments" listing (**Document 1**). Mr. Tom Magedanz is retiring and his agencies have been assigned to Ms. Roxanne Hammond. Changes were also made to the fiscal staff listing due to realignment of agencies and the hiring of Ms. Stephanie Gruba. Mr. Decker noted that if any committee member wishes to change agencies, it could be discussed.

It was also noted that the committee would be receiving a mailing regarding a petition challenging the Department of Game, Fish and Parks' trapping rules. This is only an informational item and no action is necessary from this committee.

Rules Reviewed

Department of Education: Board of Education – Amend Special Education rules to remove unused definitions, update outdated language to reflect current names, and update the definition of certain evaluators to reflect licensure by an outside agency instead of certification through the Department of Education; amend Certification rules to remove outdated language; and amend Teacher Preparation Program Approval rules to remove speech/language pathologists from the definition of "Other School Personnel" and remove language which is no longer needed.

Ms. Tami Darnall and **Ms. Linda Turner** reviewed the proposed rules.

Senator Vehle moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Education: Board of Education is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Labor and Regulation: South Dakota Electrical Commission – Amend rules to adopt the 2014 National Electrical Code and update the references to the 2012 International Building Code; clarify a statutory reference regarding the maintenance electrical license; document the changes to allowable continuing education courses and the number of hours allowed; add the ability to final void an installation at the time of a rough-in or final inspection with notice of non-compliance to the owner; change the bonding inspection notification requirement for swimming pools; clarify the definition of patient care space; require tamper resistant receptacle protection be utilized in residential housing units moved to new locations; repeal a rule that requires specific wiring methods for seasonal dwelling; and adopt rules regarding the undertaking fund.

Mr. J. J. Linn, Executive Director, South Dakota Electrical Commission, reviewed the proposed rules and answered questions regarding the undertaking fund.

Representative Gibson moved, seconded by Representative Hajek, that the review of the rules proposed by the Department of Labor and Regulation: South Dakota Electrical Commission is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

South Dakota Investment Council – Amend a rule to cause the program management agreement for the higher education savings plan to refer to the most recent amendment to the IRS code that affects all higher education savings plans.

Ms. Sherry Nelson reviewed the proposed rule.

Representative Hajek moved, seconded by Representative Gibson, that the review of the rule proposed by the South Dakota Investment Council is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

South Dakota Investment Council – Amend rules to combine three sections of rules for banks, associations, and other qualified public depositories into one section. The minimum allocation will be updated from \$100,000 to equal the current FDIC deposit insurance limit; clarify that collateralization is required for the allocation amount in excess of deposit insurance; repeal the requirement that allocations will be determined from the summer call report and be completed by December 1; and refer to savings and loan associations as associations.

Ms. Nelson reviewed the proposed rules.

Representative Hajek moved, seconded by Representative Gibson, that the review of the rules proposed by the South Dakota Investment Council is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Game, Fish and Parks – Amend Black Hills Bighorn Sheep Hunting Season rules to make the bighorn sheep auction tag valid only in Unit 2 and modify the current boundary description for Unit 1 to include only the geographic area of the Rapid Creek bighorn sheep sub-herd population.

Mr. Tony Leif reviewed the proposed rules. It was noted that these rules were filed with the Secretary of State in January and the auction for the tag had been held earlier this year; however, the tag had not yet been issued.

Representative Johns moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Game, Fish and Parks – Amend a Use of Parks and Public Lands rule to establish a year round prohibition against the establishment, utilization, or maintenance of a bait station on Game Production Areas, State Parks, State Recreation Areas, State Lakeside Use Areas, State Nature Areas, and State Water Access Areas; amend Public Water Zoning rules to amend the starting date that boating is prohibited on Reid Lake in Clark County from September 1 to October 20; amend the exiting "no wake zone" and "no swimming zone" at Spring Creek Recreation Area in Hughes County by designating the waters inside the floating breakwater protected areas as a "no wake zone," and by designating the waters within 20 feet of the breakwater as a "no swimming zone;" and amend the boundaries of the existing "public swimming zone" and "no wake zone" on Shadehill Reservoir in Perkins County by designating the waters fronting on the north side of the reservoir beginning 150 feet from the shore directly in front of the picnic shelter and extending 250 feet to the east along the shoreline as a "public swimming zone," and by designating the waters fronting Ketterlings Point on Shadehill Recreation Area beginning 150 feet from the shore in the center of the lodge on the east side of the point and extending around the south end of the point ending approximately in the center of the lodge on the west-facing side of the point as a "no wake zone;" amend Motorboats and Watercraft rules to incorporate the federal

navigation rules by reference and adopt a rule to address the overloading of boats; amend Refuges rules to reclassify Reid Lake State Game Refuge in Clark County to Reid Lake Waterfowl Refuge; reclassify White Lake State Game Refuge in Marshall County to White Lake Waterfowl Refuge and modify the boundary description of this refuge; eliminate the Stink Lake Waterfowl Refuge in Marshall County; and eliminate the Dry Lake State Waterfowl Refuge in Hamlin County; and adopt a Possession, Processing and Transportation of Game rule to authorize purchase and sale of the skins of lawfully taken cottontail rabbits and fox squirrel, grey squirrel, and red squirrel.

Mr. Leif reviewed the proposed rules.

Representative Johns moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Game, Fish and Parks – Amend a Sandhill Crane Hunting Season rule to increase the possession limit as approved by the U.S. Fish and Wildlife Service; amend an Archery Deer Hunting Season rule to move the starting date from the fourth Saturday of September to the second Saturday of September and eliminate that portion of the season which runs from January 1-15; amend a Black Hills Elk Hunting Season rule to adjust the number of licenses available and to modify the boundary of Unit 7 to remove that portion of the unit east of Interstate 90; amend a Custer State Park Elk Hunting Season (Any Elk) rule to adjust the number of licenses available; amend a Custer State Park Early Archery Elk Hunting Season rule to adjust the number of licenses available; amend a Mourning Dove Hunting Season rule to increase the possession limit as approved by the U.S. Fish and Wildlife Service; amend an Archery Elk Hunting Season rule to adjust the number of licenses available and to modify the boundary of Unit 7 to remove that portion of the unit east of Interstate 90; and amend a Prairie Elk Hunting Season rule to adjust the number of licenses available, modify the boundary of Unit 9 to add two hunting areas located east of Interstate 90, and adjust the season dates for Unit 9 from September 15-October 31 and December 1-15 to September 15-October 31 and December 1-31.

Mr. Leif reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hajek, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Transportation – Amend a Speed Zone rule by extending an existing 65 mph speed zone on Interstate Highway 90 beginning at milepost 55.2 and ending at milepost 66.5 an additional 1.3 miles east to end at milepost 67.8.

Mr. Bill Nevin reviewed the proposed rule.

Representative Hajek moved, seconded by Senator Hunhoff, that the review of the rule proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Transportation – Reconsideration of reverted rules (ARSD 70:07:02:13 and 70:07:02:14).

Mr. Nevin provided a brief summary on the two rules that had been reverted at the December 17th meeting because they were inconsistent as far as the timeframe that a bidder would be ineligible. After further discussion and additional hearings, the commission decided to combine the two rules into ARSD 70:07:02:13 and repeal 70:07:02:14.

Representative Johns moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Labor and Regulation: South Dakota Abstracters' Board of Examiners – Amend a rule to decrease the annual licensing fees for licensed abstracter plants.

Mr. Aaron Arnold reviewed the proposed rule.

Representative Johns moved, seconded by Representative Gibson, that the review of the rule proposed by the Department of Labor and Regulation: South Dakota Abstracters' Board of Examiners is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Environment and Natural Resources: Board of Minerals and Environment – Amend Contested Case Procedure rules to specify the conditions when a board member may not participate in a contested case hearing.

Mr. Kyrik Rombough reviewed the proposed rules.

Senator Vehle moved, seconded by Representative Hajek, that the review of the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Office of the State Auditor – Adopt a rule to require that claims seeking reimbursement from the State for travel expenses be received by the Office of the State Auditor within 60 days after the last day of travel.

Mr. Steve Barnett, State Auditor, reviewed the proposed rule.

Representative Hajek moved, seconded by Senator Vehle, that the review of the rule proposed by the Office of the State Auditor is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Labor and Regulation: South Dakota Retirement System – Amend rules to place the former State Cement Plant Retirement Plan under the authority of the chapter governing the South Dakota Retirement System; repeal two plans that no longer have any members; revise certain provisions of the remaining plans in accordance with the provisions of Senate Bill 152 of the 2014 Legislature; and provide a current reference date for the Internal Revenue Code to incorporate the current federal requirements.

Ms. Jacque Storm reviewed the proposed rules.

Representative Gibson moved, seconded by Senator Bradford, that the review of the rules proposed by the Department of Labor and Regulation: South Dakota Retirement System is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Next Meeting

The next meeting of the Interim Rules Review Committee will be on Tuesday, June 3, 2014.

Adjournment

Representative Gibson moved, seconded by Senator Vehle, that the meeting be adjourned. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Chair Johns adjourned the meeting at 12:38 p.m.