



Legislative Research Council

Rules Review Committee Minutes

**Three hundred fiftieth meeting
Monday
July 20, 2015**

**Room 414
State Capitol
Pierre, South Dakota**

The three hundred fiftieth meeting of the Rules Review Committee was called to order by Senator Mike Vehle (Chair) at 10:04 a.m., CT, on July 20, 2015, in Room 414 at the State Capitol, Pierre, South Dakota and via the Digital Dakota Network (DDN) at the following locations: Department of Human Services, 2361 Dakota Ave. S., Huron, South Dakota and Black Hills State University, 1200 University Station, Room LIB 11, Spearfish, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Phyllis Heineman and Mike Vehle (Chair) and Representatives Peggy Gibson, Jean Hunhoff, and Timothy Johns (Vice Chair). Member excused: Senator Jim Bradford. 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

Senator Heineman moved, seconded by Representative Gibson, that the minutes of the June 8, 2015, meeting be approved. Motion prevailed on a voice vote.

Rules Reviewed

Department of Agriculture: Division of Ag Development: SD Value Added Finance Authority – Amend Value Added Agribusiness Relending Program rules to enhance the definition of "Rural Area" and to increase the loan amount as a percent of total project costs.

Ms. Paula Gregg reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hunhoff, that the review of the rules proposed by the Department of Agriculture: Division of Ag Development: SD Value Added Finance Authority is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Game, Fish and Parks – Amend a Motorboats and Watercraft rule to exempt law enforcement officers from boat lighting requirements if certain criteria are met; amend an Application for License rule to require any resident or nonresident deer hunter possessing an archery deer license to obtain and possess a free access permit to hunt in Newton Hills State Park; amend Waterfowl Hunting Seasons (Nonresident waterfowl licenses), License Forms and Fees, and Youth Waterfowl Hunting Season rules to adopt recommendations of the Nonresident Waterfowl Work Group that would establish the fee for a nonresident youth (under 16 years of age) waterfowl license at \$10; amend a Black Hills Deer Hunting Season rule to increase the number of resident and nonresident "Any Whitetail" deer licenses; amend West River Prairie Deer Season rules to establish the number and types of resident and nonresident licenses/tags available, adjust season dates, change the county designation for Unit WRD-65A from Shannon County to Oglala Lakota County, and eliminate the opportunity to hunt antlerless deer during the 9 days which begins on the Saturday after Christmas as well as the use of unfilled "any antlerless deer" and "any antlerless whitetail deer" tags during these 9 days; amend East River Deer Hunting Season rules to establish the number and types of licenses available, establish Unit ERD-07B as an antlerless deer unit within Yankton County described as that portion of Yankton County south of SD Highway 50 and west of US Highway 81; amend Archery Deer Hunting Season rules to provide an exception in Unit ARD-LM1 that would allow archery hunters possessing an access permit to archery hunt in Adams Homestead and Nature Preserve Area and increase the number of "antlerless whitetail deer" archery access permits; amend National Wildlife Refuge Deer Hunting Season rules to open Unit RFD-SL4 and adjust the "any deer" and "any antlerless deer" licenses for Sand Lake National Wildlife Refuge and adjust the season dates for Waubay National Wildlife Refuge; and amend a Persons with Disabilities rule to allow telescopic sights and lighted sight pins to be used by crossbow permittees.

Mr. Scott Simpson reviewed the proposed rules.

Representative Hunhoff moved, seconded by Representative Johns, 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 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Game, Fish and Parks – Amend a Custer State Parks Restrictions rule to prohibit hunting any big game species within 200 yards of any public access road or building in Custer State Park; amend Fall Wild Turkey Hunting Season rules to adjust the number of licenses/tags for residents and nonresident hunters in the East River Prairie Units and the Black Hills Unit (Unit BH1), and modify Unit NE1 to include those portions of Marshall County located south and east of SD Hwy. 25 and north of SD Hwy. 10 and Roberts County north of SD Hwy. 10; amend an Antelope Hunting Season rule to adjust the number of licenses/tags for residents and nonresident hunters; and amend a Waterfowl Hunting Season rule to modify the boundaries of Units 1 and 2 established in ARSD § 41:06:16:07.

Mr. Simpson 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 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Transportation – Amend a Speed Limits rule in Sanborn County beginning at the junction of SD Hwy. 37 and SD Hwy. 34 to 0.10 mile west of 232nd Street; then beginning 0.10 mile east of Main Street in Forestburg to the east junction of SD Hwy. 37 and SD Hwy. 34 is being increased to 70 miles per hour.

Ms. Katie Thompson and **Mr. Scott Rabern** reviewed the proposed rule.

Representative Gibson moved, seconded by Senator Heineman, that the review of the rule proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Office of the Attorney General: Law Enforcement Officers Standards and Training Commission – Amend rules to allow physician's assistants and nurse practitioners to conduct examinations of law enforcement officers and create an enhanced concealed pistol use of force training program, to establish rules regarding the minimum standards for a person to attend the training program, expiration date for the use of force training certificate of completion and rules regarding the implementation of the course, including the training course fees.

Mr. Paul Bachand, Pierre, Attorney representing the Commission, and **Mr. Scott Rechtenbaugh** reviewed the proposed rules.

Representative Gibson moved, seconded by Senator Vehle, that the review of the rules proposed by the Office of the Attorney General: Law Enforcement Officers Standards and Training Commission is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Health: State Board of Dentistry – Amend rules to change the name Advanced Dental Assistant to Registered Dental Assistant and update the definition to maintain consistency with state law.

Ms. Brittany Novotny, Pierre, Executive Secretary for the Board, reviewed the proposed rules.

Representative Johns moved, seconded by Representative Hunhoff, that the review of the rules proposed by the Department of Health: State Board of Dentistry is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Environment and Natural Resources: Board of Water and Natural Resources – Amend a rule to make adjustments to the director areas of the James River Water Development District.

Mr. Pete Jahraus reviewed the proposed rule.

Senator Vehle moved, seconded by Senator Heineman, that the review of the rule proposed by the Department of Environment and Natural Resources: Board of Water and Natural Resources is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Labor and Regulation: Division of Unemployment Insurance – Adopt a rule to authorize the use of the Treasury Offset Program (TOP) to collect delinquent covered unemployment compensation (UC) debt from employers.

Ms. Pauline Heier reviewed the proposed rule.

Representative Hunhoff moved, seconded by Senator Vehle, that the review of the rule proposed by the Department of Labor and Regulation: Division of Unemployment Insurance is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Secretary of State: Board of Elections – Amend rules to provide additional instructions to voters on how to mark an optical scan ballot, allow the person in charge of the election to determine where the ballot stamp watermark is placed on the ballot, add residence address including city and zip code to the nominating petition for school board candidates, add city and zip code to the municipal candidate nominating petition, add aldermanic as a type of a municipal government that can increase or decrease the number of wards on the petition form, add a notation to the general authority section to the administrative rule for approving electronic ballot marking systems, clarify what ballots can be requested on the absentee ballot application and what ballots can be requested to be emailed to military and overseas voters on the absentee ballot application, clarify who a recount petition is filed with, and repeal a notice of cancellation of election that is not required by statute.

Ms. Shantel Krebs, Secretary of State, reviewed the proposed rules.

It was noted in ARSD 5:02:05:02.01, under "Election Crimes" on pages 2 and 5, the language used was inconsistent. It was suggested that the Board correct the grammar and language by amendment to this rule in the future.

Senator Vehle moved, seconded by Representative Gibson, that the review of the rules proposed by the Secretary of State: Board of Elections is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Education: State Historical Society – Amend rules to increase the membership fees for the State Historical Society; increase fees at the State Archives for microfilm production and add fees for new services of digital camera use and microfiche scanning; and amend fees charged by the Archaeological Research Center for its services regarding curation, permits, and data services, and remove fees charged for certain other services.

Mr. Jim Haug, Rapid City, Archaeological Research Center, reviewed the proposed rules.

Senator Heineman moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Education: State Historical Society is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Health: Board of Pharmacy – Amend rules to establish the ability of pharmacies to increase the technician to pharmacist ratio.

Mr. Randy Jones, Sioux Falls, Executive Director for the board, reviewed the proposed rules.

Public Testimony

Mr. Rob Loe, Pierre, Pharmacist, and a board member of the South Dakota Pharmacists Association, spoke in support of the proposed rules.

Mr. Brad Saathoff, Pierre, Pharmacist, Avera Health, spoke in support of the proposed rules.

Representative Johns moved, seconded by Representative Gibson, that the review of the rules proposed by the Department of Health: Board of Pharmacy is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Department of Health: Division of Health and Medical Services – Amend rules to add severe combined immunodeficiency disorder (SCID) to the mandated newborn screening panel.

Ms. Colleen Winter reviewed the proposed rules.

Senator Heineman moved, seconded by Senator Vehle, that the review of the rules proposed by the Department of Health: Division of Health and Medical Services is complete. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Heineman, Hunhoff, Johns, and Vehle. Member excused: Bradford.

Committee Discussion

SDCL 1-26 requirements – discussion continued from April 2015 meeting regarding information in final rules package submitted to the committee.

Chair Vehle asked for comments from the members regarding information they would like to see in an outline when reviewing the rules.

Suggestions included that a page number reference from the minutes be included on the outline so members know where to find action and testimony (pro and con) relating to the proposed rules; ask the agency/board to note if the proposed rules are being promulgated due to a particular bill; the dates that each step of the rules process was completed; and that it be strongly suggested that the outline be followed during the presentation to the committee.

Chair Vehle asked staff to incorporate the ideas into an outline.

Senator Heineman requested that she receive both the electronic copy and a printed copy of the rules information packet from agencies. Staff will add Senator Heineman's mailing address to Forms 12 and 17 on the LRC website.

Next Meeting Date

The next interim meeting of the Interim Rules Review Committee will be on Monday, August 17, 2015.

Adjournment

Senator Heineman moved, seconded by Representative Johns, that the meeting be adjourned. Motion prevailed on a voice vote.

Chair Vehle adjourned the meeting at 1:50 p.m.