

MINUTES

Rules Review Committee



Senator Mike Vehle, Chair

Representative Timothy Johns, Vice Chair

Three hundred fifty-seventh meeting

Wednesday

June 1, 2016

Room 414

State Capitol

Pierre, South Dakota

Other DDN Site Location:

Black Hills State University

1200 University Station, Room LIB 11

Spearfish, South Dakota

The three hundred fifty-seventh meeting of the Rules Review Committee was called to order by Senator Mike Vehle (Chair) at 10:09 a.m., CT, on June 1, 2016, in Room 414 at the State Capitol, Pierre, South Dakota and via the Digital Dakota Network (DDN) at the following location: 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 Jim Bradford, Phyllis Heineman, and Mike Vehle (Chair) and Representatives Peggy Gibson, Jean Hunhoff, and Timothy Johns (Vice 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://sdlegislature.gov> under "Interim."

Approval of Minutes

Representative Gibson moved, seconded by Representative Hunhoff, that the minutes of the April 12, 2016, meeting be approved. Motion prevailed on a voice vote.

Rules Reviewed

Department of Agriculture: South Dakota State Fair – Repeal a rule regarding health requirements for animals that is also addressed under ARSD 12:68:12 – Exhibition of Animals

Ms. Peggy Besch reviewed the proposed rule change.

Public Testimony

Dr. Mendel Miller, Pierre, Animal Industry Board, spoke in support of repealing the duplicate rule.

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

Department of Agriculture: South Dakota Value Added Finance Authority – Amend a rule to allow the board to commission more than one study a year.

Ms. Terri LaBrie and **Mr. Paul Kostboth** reviewed the proposed rule, the value added agriculture subfund criteria, the studies that have been commissioned, and the subfund financial balances.

Public Testimony

Ms. Brenda Forman, Pierre, Executive Director, South Dakota Association of Cooperatives, stated she was in support of the program, however, she was concerned about the unlimited number of studies allowed per year under the rule. The rule did not limit the total number of dollars spent per fiscal year. She asked there be an upper level maximum.

In response to Ms. Forman's testimony, Ms. LaBrie stated the board members are fiscally responsible and this change will allow them to commission more than one study per year within their budgetary limits.

Following discussions on the subfund criteria and money available, some of the members believed the rule change was within the board's authority, however the subject should be looked at for the next legislative session. Other members were of the opinion that the rule change was not within legislative intent or would allow the board to spend more than what was appropriated.

Representative Johns moved, seconded by Senator Bradford, that the review of the rule proposed by the Department of Agriculture: South Dakota Value Added Finance Authority is complete.

A substitute motion was made by Representative Gibson, seconded by Representative Hunhoff, that the rule be reverted back to a prior step so the Department of Agriculture: South Dakota Value Added Finance Authority could specify the number of studies allowed per fiscal year. Substitute motion failed on a roll call vote with 3 ayes and 3 nays. Members voting aye: Gibson, Heineman, and Hunhoff. Member voting nay: Bradford, Johns, and Vehle.

Representative Johns' original motion failed on a roll call vote with 3 ayes and 3 nays. Members voting aye: Bradford, Johns, and Vehle. Members voting nay: Gibson, Heineman, and Hunhoff.

Following a discussion on the deadlock, Mr. Decker stated when the committee is divided there could be a motion "process is complete but the committee has no recommendation," or the agency can voluntary withdraw the rule, address the concerns of the committee, and restart the rule promulgation process.

Representative Johns moved, seconded by Senator Vehle, that the review of the rule proposed by the Department of Agriculture: South Dakota Value Added Finance Authority is complete but the committee has no recommendation. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Heineman, Hunhoff, Johns, and Vehle.

Department of Transportation – Amend a Sturgis Motorcycle Rally temporary limited speed zone on Interstate 90 by extending the 65 mph limit to milepost 55.02 and changing the dates to begin on the Thursday preceding the first full weekend in August and ending the Sunday of the second full weekend in August; amend a Meade County Sturgis Motorcycle Rally temporary limited speed zone on SD Highway 79 by extending the 45 mph limit to 1.75 miles north of the junction of State Trunk Highway 34 east of Sturgis and changing the dates to begin on the Thursday preceding the first full weekend in August and ending the Sunday of the second full weekend in August; and amend a Hughes County speed zone on US Highway 14 beginning 0.2 mile west of 321st Avenue, then east for .076 mile, is being reduced to 55 mph.

Ms. Karla Engle reviewed the proposed rules.

Senator Bradford 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, Heineman, Hunhoff, Johns, and Vehle.

Department of Education: Board of Education – Amend Public School Accountability System rules to make changes for purposes of carrying over classifications from the 2014-15 report card to the 2015-16 report card.

Ms. Bobbi Rank and **Ms. Laura Scheibe** reviewed the proposed rules.

Senator Heineman moved, seconded by Senator Vehle, 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, Heineman, Hunhoff, Johns, and Vehle.

Department of Labor and Regulation: Division of Insurance – Amend rules to update the sources referenced in rule and incorporate the 2016 Medicare coverage amounts.

Ms. Mallori Barnett reviewed the proposed rules.

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

Public Utilities Commission – Adopt rules to set forth specific measurement and testing procedures that an electric utility must follow when the utility tests a dairy for stray voltage or current.

Mr. Chris Nelson, Chair, Public Utilities Commission, reviewed the proposed rules.

Public Testimony

Ms. Darla Pollman Rogers, Pierre, South Dakota Rural Electric Association, spoke in support of the proposed rules.

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

Department of Labor and Regulation: Division of Labor and Management – Amend rules to revise the workers' compensation fee schedule.

Mr. James Marsh reviewed the proposed rules.

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

Office of the Secretary of State – Amend rules to update notary public application and change forms, update Uniformed Commercial Code rules, repeal outdated Business Trust and Farm Corporations and Syndicates rules, revise the charges for absentee voting information, and revise the additional registration fee for reprinting lobbyists' badges.

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

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

Office of the Secretary of State: Board of Elections – Amend rules to specify a location on the voter registration form for cancelling a voter's registration, allow for a large print version of the voter registration form, and repeal the overseas registrant form; provide new language for Americans Disability Act (ADA) information on numerous election notices; provide municipalities and schools with another reason for a vacancy on the notice of vacancy; amend the notice of deadline for filing primary nominating petitions to include the filing deadline for independent candidates; create forms for notice of vacancy for newly incorporated municipalities and notice of vacancy for conservation district supervisor; amend format for primary, general, alternate optical scan ballots, and municipal election ballots; amend the instructions to voters on the optical scan ballots; create a ballot format for county question elections; amend the guidelines for acceptance of petitions to include the requirement for statewide candidate petitions to be verified against the statewide voter registration file; amend the five percent random sample process to include statewide candidates and use an up to date process for how the random sample is determined; create a new affidavit form for sponsors of statewide ballot measures; remove outdated language in the initiated constitutional amendment petition or initiated petition for repeal of constitutional provision and remove a statute reference that is no longer in state

law; create petition for schools to implement a school sentinel program; repeal requirement for submission of a voter center plan and repeal the denied application process; amend the format for the official record of absentee ballots to allow both electronic and paper records and remove the requirement to be linked to the master voter registration file.

Ms. Krebs, Secretary of State, reviewed the proposed rules for the Board of Elections.

Representative Johns moved, seconded by Representative Gibson, that the review of the rules proposed by the Office of the Secretary of State: Board of Elections is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Heineman, Hunhoff, Johns, and Vehle.

Department of Health: Division of Family and Community Health – Amend rules to add Zika to the reportable disease list and define immunization requirements for early childhood program entry, kindergarten entry, sixth grade entry, and transfer students.

Ms. Colleen Winter reviewed the proposed rules.

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

Department of Health: Division of Health Systems Development and Regulation – Repeal a rule regarding medication therapy review.

Mr. Tom Martinec reviewed the proposed rule.

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

Department of Health: Division of Health Systems Development and Regulation – Amend rules to outline revised minimum staffing requirements for ambulance service personnel.

Mr. Martinec reviewed the proposed rules.

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

Next Meeting Date

The next meeting of the Interim Rules Review Committee will be on Tuesday, July 12, 2016.

Adjournment

Representative Gibson moved, seconded by Representative Hunhoff, that the meeting be adjourned. Motion prevailed on a voice vote.

Chair Vehle adjourned the meeting at 1:34 p.m.