

MINUTES

Code Commission

Michael DeMersseman, Chair
Margaret V. Gillespie, Vice Chair



One hundred twenty-second Meeting
Friday, December 07, 2018

Room 363, State Capitol
Pierre, South Dakota

The one hundred twenty-second meeting of the South Dakota Code Commission was called to order by Vice Chair Margaret Gillespie at 1:38 p.m. CDT, December 7, 2018, in Room 363 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Commissioners Margaret Gillespie (Vice Chair), Tom Lee, Arthur Rusch, and Mike Stevens. Chair Michael DeMersseman was excused. All but Commissioner Lee participated by telephone.

Staff members present were Doug Decker, Code Counsel, and Kelly Thompson, Senior Legislative Secretary.

Others present by telephone were Lila Hambleton, Nickie Nielsen, and Ann Barnard of West Publishing, Thomson Reuters.

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.

Approval of Minutes

Commissioner Rusch moved, seconded by Commissioner Lee, that the minutes of the July 27, 2018 meeting be approved. Motion prevailed on a roll call vote with 4 ayes and 1 excused. Voting aye: Gillespie, Lee, Rusch, and Stevens. Excused: DeMersseman.

Opening Remarks

Mr. Doug Decker, Code Counsel, LRC, said the purpose of the meeting was to obtain guidance from the Commission on the agenda items.

Agreement with IBM Regarding the "IBM Watson Regulatory Compliance" Service

Mr. Decker referenced a draft copy of the agreement with IBM regarding the "IBM Watson Regulatory Compliance" Service which he had provided to the commissioners prior to the meeting for review.

Among the changes he suggested to the initial contract received by IBM were changing the term "Licensor" to "Commission"; defining the materials subject to the agreement as the documents available to the public on the LRC website including a statute's catchline, code reference, text, and source notes; restricting IBM's access to the online materials to between 10:00 p.m. and 6:00 a.m. during low traffic periods on the

website; changing the renewal terms from an initial 3-year automatic renewal to renewal upon request for consecutive one year periods; and denying that the subject of the agreement be confidential. Mr. Decker noted that because LRC is a public entity, the agreement should not be confidential.

Commissioner Rusch asked if West Publishing had any concerns about the agreement. **Ms. Ann Barnard, Senior Counsel, West Publishing**, replied she had spoken to Mr. Decker about the agreement and her company had no objections as long as the Code Commission was comfortable with it.

Commissioner Gillespie inquired if there were any IT or security issues concerning IBM's access to the website. Mr. Decker responded many protections have been built into the website already and the main concern by the IT staff is the potential drag on the system if the data were being pulled during high traffic periods.

Regarding the responsibilities of the parties, Commissioner Gillespie wondered if the contract needed to clearly prohibit the republication of the information. Commissioner Lee pointed out that IBM is interested in providing their clients with the most current information and republication would not serve that goal.

Mr. Decker was instructed to send the proposed changes to the agreement to IBM.

Computer File Exchange Between Legislative Research Council and West Publishing

Under LRC's contract with West Publishing, the vendor is required to deliver computer files in a format agreed upon by the parties. Mr. Decker advised the Commission that LRC is in the process of revamping its bill drafting system and switching to a Word-based system. IT staff for West Publishing is also revising their system. It will be important for both sides to communicate with each other during this process to ensure compatible standards are being developed. The updates may also prompt changes to the contract which is up for renewal in June of 2019.

West Publishing Contract

Mr. Decker brought to the members' attention a recent opinion by the U.S. Court of Appeals for the 11th Circuit which ruled that the annotated version Official Code of Georgia was public record and could not be copyrighted. He suggested this was an issue that may need to be addressed in South Dakota's contract at the time of renewal.

Commissioner Rusch requested that Mr. Decker review the opinion and draft a proposal for review and discussion at the next meeting.

Comments and Discussion

Terms for Commissioners Rusch and Stevens will end in January of 2019. Mr. Decker advised that although Commissioner Stevens will no longer be serving in the Legislature, he could continue as a member. Commissioner Rusch asked that LRC send notice to the appointing bodies regarding when member terms are ending and reminding them that new appointments are needed.

Adjournment

Commissioner Rusch moved, seconded by Commissioner Stevens, to adjourn. Motion prevailed on a roll call vote with 4 ayes and 1 excused. Voting aye: Gillespie, Lee, Rusch, and Stevens. Excused: DeMersseman.

Vice Chair Gillespie adjourned the meeting at 2:18 p.m.