



Legislative Research Council

SOUTH DAKOTA CODE COMMISSION MINUTES

One hundred fifth Meeting
Friday
June 19, 2009

Executive Board Room
Ramkota Hotel
Sioux Falls, SD

The one hundred fifth meeting of the South Dakota Code Commission was called to order by Vice Chair Lee McCahren at 11:30 a.m., June 19, 2009, in the Executive Board Room of the Ramkota Hotel in Sioux Falls, South Dakota.

A quorum was determined with the following members answering the roll call: Commissioners Thomas Deadrick, Tom Lee, Lee McCahren (Vice Chair), and Nancy Turbak Berry. Commissioner Michael DeMersseman (Chair) was excused.

In attendance as an interested party was Mr. Rick Brown representing Thomson-West. Staff member present was Doug Decker, Code Counsel.

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 Turbak Berry moved, seconded by Commissioner McCahren, to approve the minutes of the January 15, 2009, meeting. Motion prevailed on a voice vote.

Consideration of Replacement Volumes

The meeting opened with a discussion about reprinting certain volumes of the South Dakota Codified Laws (Code). The Commission had been previously mailed a table showing the growth in the pocket parts for each bound volume of the Code (**Document 1**). The table, prepared by West Publishing, reported the percentage of pocket part pages relative to permanent bound volume pages. It is the practice of the Commission to consider a volume for reprinting when the percentage of pocket part pages relative to bound volume pages reaches 25% or more. As reported in the table, Volume 34 meets the criteria for reprinting and is scheduled to be reprinted in October.

Title 10, Taxation includes Chapters 10-1 to 10-60, inclusive, and is divided between Volumes 6 and 7 of the Code. Volume 7, containing Chapters 10-37 to 10-60, inclusive, also meets the reprint criteria. Title 10 was previously published in one volume. This Title was divided into two volumes when the Code was reissued in 2004. The decision to divide Title 10 into two volumes was made because as one volume, it included too many pages. Printed as two volumes, the books were easier to handle. The division of the title was based on the page count for the bound volume and the chapters divided so each volume would contain relatively equal page numbers. Currently, due to legislative activity regarding chapters dealing with sales and use tax, Volume 7 meets the criteria for reprinting.

Commissioner Lee moved, seconded by Commissioner Deadrick, to reprint Volume 7.

Following additional discussion regarding the rationale for the current chapter division and whether it would make sense to look at moving certain taxation chapters from Volume 7 to Volume 6 as part of the decision to reprint Volume 7, *Commissioner Lee and Commissioner Deadrick withdrew the motion and second.*

The Commission asked Mr. Decker to consult with the editors at West regarding the current organization of Volumes 6 and 7 and to report to the Commission.

After further discussion, the Commission did not take any action regarding reprinting an additional volume at this time. The Commission will revisit this issue at its January meeting.

Appendix of Forms

Title 23A, Volume 15

Commissioner Deadrick opened the discussion regarding the status of certain legal forms published in the Code as Appendices at the end of various chapters. He was concerned about the accuracy of the forms attached to Title 23A, Criminal Procedure. He asked about the origin of the forms and inquired regarding the responsibility to maintain the forms to ensure the forms comply with changes in the law. He related his efforts to determine the origin of the forms and a problem he recently had with an obsolete form being used by another attorney. The form as published had not kept up with changes in case law and statute, thus there was a conflict between the law and the form. After discussion it was the recommendation of the Commission to contact the appropriate State Bar of South Dakota committees to solicit their input regarding these forms and to contact the State Bar in general to solicit additional information. The commission directed Mr. Decker to research the Code to determine the origin of the forms and asked Mr. Brown to utilize the editors at West to assist in determining how many chapters of the Code include an appendix with forms.

Mr. Decker will draft a letter for review by the Commission chair and members seeking the appropriate input from the State Bar Association.

Adjournment

There being no other business, *Commissioner McCahren moved, seconded by Commissioner Turbak Berry, to adjourn. Motion prevailed on a voice vote.*

The meeting adjourned at 12:25 p.m.

