

State of South Dakota

NINETY-SECOND SESSION LEGISLATIVE ASSEMBLY, 2017

937Y0074

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for a public notice of a public
2 meeting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-25-1.3 be amended to read:

5 1-25-1.3. The state and each state board, commission, or department shall provide public
6 notice, ~~with proposed agenda, that is visible, readable, and accessible to the public for at least~~
7 ~~two continuous days, as that time period is computed pursuant to § 15-6-6(a), immediately~~
8 ~~preceding any meeting,~~ of a meeting by posting a copy of the notice proposed agenda at the
9 principal office of the public body holding the meeting. The proposed agenda shall include the
10 date, time, and location of the meeting, be visible, readable, and accessible to the public. The
11 agenda shall be posted at least seventy-two hours before the meeting is scheduled to start
12 according to the agenda. The seventy-two hours does not include the day the agenda is posted
13 nor Saturday, Sunday, or legal holidays. The notice shall also be posted on the public body's
14 website upon dissemination of the notice, if such a website exists. For any special or
15 rescheduled meeting, the information in the notice shall be delivered in person, by mail, by
16 email, or by telephone, to members of the local news media who have requested notice. For any



1 special or rescheduled meeting, each public body shall also comply with the public notice
2 provisions of this section for a regular meeting to the extent that circumstances permit. A
3 violation of this section is a Class 2 misdemeanor.

4 Section 2. That § 1-26-4 be amended to read:

5 1-26-4. The following notice, service, and public hearing procedure shall be used to adopt,
6 amend, or repeal a permanent rule:

7 (1) An agency shall serve a copy of a proposed rule and any publication described in § 1-
8 26-6.6 upon the departmental secretary, bureau commissioner, public utilities
9 commissioner, or constitutional officer to which it is attached for the secretary's,
10 commissioner's, or officer's written approval to proceed;

11 (2) After receiving the written approval of the secretary, commissioner, or officer to
12 proceed, the agency shall serve the director with a copy of: the proposed rules; any
13 publication described in § 1-26-6.6; the fiscal note described in § 1-26-4.2; the
14 impact statement on small business described in § 1-26-2.1; and the notice of hearing
15 required by § 1-26-4.1. The copy of these documents shall be served at least twenty
16 days before the public hearing to adopt the proposed rules. Any publication described
17 in § 1-26-6.6 shall be returned to the agency upon completion of the director's review
18 and retained by the agency. Also, twenty days before the public hearing, the agency
19 shall serve the commissioner of the Bureau of Finance and Management with a copy
20 of: the proposed rules; the fiscal note described in § 1-26-4.2; the impact statement
21 on small business described in § 1-26-2.1; and the notice of hearing required by § 1-
22 26-4.1;

23 (3) The agency shall publish the notice of hearing in the manner prescribed by § 1-26-
24 4.1, at least twenty days before the public hearing;

1 (4) After reviewing the proposed rule pursuant to § 1-26-6.5, the director shall advise the
2 agency of any recommended corrections to the proposed rule. If the agency does not
3 concur with any recommendation of the director, the agency may appeal the
4 recommended correction to the Interim Rules Review Committee for appropriate
5 action;

6 (5) The agency shall afford all interested persons reasonable opportunity to submit
7 amendments, data, opinions, or arguments at a public hearing held to adopt the rule.
8 The hearing may be continued from time to time. The agency shall keep minutes of
9 the hearing. A majority of the members of any board or commission authorized to
10 pass rules must be present during the course of the public hearing;

11 (6) If the ~~agency is headed by~~ authority promulgating the rule is a secretary,
12 commissioner, or officer, the agency shall accept written comments regarding the
13 proposed rule for a period of ten days after the public hearing. If the ~~agency~~ authority
14 promulgating the rule is a part-time citizen board, commission, committee, or task
15 force, ~~the~~ each interested person is required to submit written comments at least
16 seventy-two hours before the public hearing. The seventy-two hours does not include
17 the day of the public hearing. The written comments may be submitted by mail or
18 email. The record of written comments shall ~~may~~ be closed at the conclusion of the
19 public hearing. However, the hearing may be specifically continued for the purpose
20 of taking additional comments;

21 (7) After the written comment period, the agency shall fully consider all amendments,
22 data, opinions, or arguments regarding the proposed rule. A proposed rule may be
23 modified or amended at this time to include or exclude matters which were described
24 in the notice of hearing; and

1 (8) The agency shall serve the minutes of the hearing, a complete record of written
2 comments, the impact statement on small business, the fiscal note, the information
3 required in § 1-26-4.8, and a corrected copy of the rules on the members of the
4 Interim Rules Review Committee at least five days before the agency appears before
5 the committee to present the rules.

6 The time periods specified in this section may be extended by the agency. The requirement
7 to serve the committee in subdivision (8) may be waived by the committee chair if the agency
8 presents sufficient reasons to the committee chair that the agency is unable to comply with the
9 time limit. The waiver may not be granted solely for the convenience of the agency.

10 Section 3. That § 1-26-4.1 be amended to read:

11 1-26-4.1. The notice of a public hearing of an agency's intent to adopt, amend, or repeal a
12 rule shall be published in a manner selected to notify persons likely to be affected by the
13 proposed rule. At a minimum the notice of the public hearing shall be published in at least three
14 newspapers of general circulation in different parts of the state. The provisions of chapter 17-2
15 do not apply to notices required by this section.

16 The notice of a public hearing or the notice of intent to adopt an emergency rule shall be
17 mailed to each person who has made a timely request of the agency for advance notice of its
18 rule-making proceedings.

19 A notice of hearing or a notice of intent to adopt emergency rules shall contain a narrative
20 description of the effect of the proposed rule and the reasons for adopting the proposed rule. A
21 notice of hearing shall also state where and when the hearing will be held, how amendments,
22 data, opinions, and arguments may be presented, the deadline to submit written comments, and
23 how the public may obtain copies of the proposed rule.