

REGISTER



South Dakota Legislative Research Council

Volume 36

Monday, 8:00 a.m., April 19, 2010

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Human Services: Board of Social Work Examiners: (April 12, 2010) intends to amend a rule to increase the exam fee for Social Worker Associate (Associate), Social Worker (Bachelor) and Certified Social Worker (Master) levels from \$200 to \$255 and for Certified Social Worker – Private Independent Practice (Clinical and Advanced Generalist) level from \$200 to \$285. The general authority for these rules, as cited by the board, is SDCL 36-26-19.

A public hearing will be held in the Boardroom at The Lodge at Deadwood, 100 Pine Crest Lane, Deadwood, South Dakota, on May 21, 2010, at 9:00 a.m. MDT/10:00 a.m. CDT. Copies of the proposed rule may be obtained from and written comments sent to S.D. Board of Social Work Examiners, 135 East Illinois, Suite 214, Spearfish, South Dakota 57783. Written comments must be received by May 18, 2010, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

Secretary of State: Board of Elections: (April 13, 2010) intends to amend rules to provide notice to felons being removed from the voter registration list, provide additional information on the municipal election cancellation notice, provide notice regarding felon disqualification, clarify ballot wording, update water development petition language, provide a form for precinct committeemen and women, require additional information on the

absentee ballot log, add language to absentee voting materials to accommodate overseas voters requesting voting materials electronically and provide an uncounted absentee ballot envelope. The general authority for these rules, as cited by the office, is SDCL 12-1-9 and 12-19-2.

A public hearing will be held on May 12, 2010, at 8:30 a.m. in LCR 1 and 2, State Capitol, 500 East Capitol, Pierre, South Dakota. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Election Department, 500 East Capitol, Pierre, South Dakota 57501 or the proposed rules may be obtained at <http://www.sdsos.gov/electionsvoteregistration/boardofelections.shtm>. Written comments must be received on or before May 11, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

The Help American Vote Act State Plan will also be considered for revision. The proposed plan is available at <http://www.sdsos.gov/electionsvoteregistration/hava.shtm> or may be obtained without charge from the Secretary of State's office at the address listed above.

Department of Game, Fish and Parks: (April 16, 2010) intends to amend Licensing Agents rules to establish definitions for "licensing agent" and "license fees;" remove obsolete language from the existing rule; establish a department timeline for distribution of invoices to licensing agents for previous

month's sales to license agents; establish a timeline for licensing agents' payment to department for fees collected; create new rules establishing the guidelines for disconnection and interest charges for licensing agents past due on payments owed to the department for license sales, establishing the requirements of use of Emergency Authorization licenses, and establishing the value for lost or stolen Emergency Authorization licenses; and update language of rule for filling out license applications in order to incorporate the needs of the automated licensing system; amend a Uses of Parks and Public Lands rule to define "camper units" and subject "camper units" along with "persons and groups" to the 15-day limit imposed on the length of a camping stay in a state park, state recreation area or state lakeside use area; amend a License Forms and Fees rule to include subscription holders as a list type for the purpose of list requests, and establish provisions that governmental entities may obtain lists free of charge, and that political parties and elected officials are required to pay full-fee charges to obtain license and subscription holder lists; amend an Archery Restrictions rule to allow archery hunters to use and possess mechanical broadheads with a cutting diameter no greater than 2 inches; amend Waterfowl Hunting Seasons rules to establish an August Management Take to allow for the taking of resident Canada geese as authorized by the U.S. Fish and Wildlife Service and to establish a resident only license, season dates, open areas (Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake McCook, Marshall, Minnehaha, Moody and Roberts counties), daily bag and possession limits, and requirements and restrictions, including establishing shooting hours and requiring a state migratory bird certification (federal waterfowl stamp would not be required); and amend a Dog Training rule to transfer authority to issue special permits to individuals who use horses to train dogs on publicly owned land from the department to the government agency that holds land management authority over the publicly owned land. The

general authority for these rules, as cited by the department, is SDCL 1-27-1, 41-2-18, 41-6-78, 41-11-5, and 41-17-1.1.

A public hearing will be held at the Sylvan Lake Lodge located in Custer State Park, 24572 SD Highway 87, Custer, South Dakota, on May 6, 2010, at 2:00 p.m. (MDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by email to chuck.schlueter@state.sd.us. All written and email comments must include the commenter's name and address. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

Department of Social Services: Economic Assistance: (April 16, 2010) intends to amend rules to expand the list of sources available for determining Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) eligibility; clarify eligibility and payment requirements related to the Auxiliary Placement Program; and update medical eligibility requirements to comply with federal provisions. The general authority for these rules, as cited by the department, is SDCL 28-6-1 and 28-7A-3.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 11, 2010, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South

Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 21, 2010, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3165 at least 48 hours before the hearing.

Department of Social Services: Economic Assistance: (April 16, 2010) intends to repeal obsolete rules within the Division of Economic Assistance relating to assistance payments. The general authority for these rules, as cited by the department, is SDCL 28-1-27, 28-1-56, and 28-7-2.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 11, 2010, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 21, 2010, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3165 at least 48 hours before the

hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF TRANSPORTATION:
70:01:02:21 (5) and 70:01:02:35 (4).

History-Notice: 36 SDR 107, Dec. 14, 2009
Hearing: January 28, 2009
Filed: April 13, 2010
Effective: May 3, 2010

Executive Orders:

The Governor has signed **Executive Order 2010-7** dated April 12, 2010. Due to the high water in Lake Poinsett, the Governor has established a "no-wake" zone within 300 feet of the shoreline for the entire lake.

The Governor has signed **Executive Order 2010-8** dated April 12, 2010. This executive order permits overwidth fertilizer vehicles to move on state highways during nighttime hours under the terms of the vehicles permit. The executive order expires no later than May 27, 2010.

The Governor has signed **Executive Order 2010-9** dated April 14, 2010. Senate Bill 50 from the 2010 legislative session provided the Governor with the authority to establish the procedures for the allocation of or reallocation of volume or other bond issuance authority established under The American Recovery and Reinvestment Act of 2009. This executive order establishes the procedures to implement the bonding authority.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of

Pharmacy, the Real Estate Commission, the Gaming
Commission, the Department of Revenue and Regulation,

and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

5-4-2010	Revenue and Regulation: Division of Insurance	Amend a rule to allow for additional risk pool plan designs; 36 SDR 158.
5-6-2010	Game, Fish and Parks	Amend Licensing Agents rules to establish definitions for "licensing agent" and "license fees;" remove obsolete language from the existing rule; establish a department timeline for distribution of invoices to licensing agents for previous month's sales to license agents; establish a timeline for licensing agents' payment to department for fees collected; create new rules establishing the guidelines for disconnection and interest charges for licensing agents past due on payments owed to the department for license sales, establishing the requirements of use of Emergency Authorization licenses, and establishing the value for lost or stolen Emergency Authorization licenses; and update language of rule for filling out license applications in order to incorporate the needs of the automated licensing system; amend a Uses of Parks and Public Lands rule to define "camper units" and subject "camper units" along with "persons and groups" to the 15-day limit imposed on the length of a camping stay in a state park, state recreation area or state lakeside use area; amend a License Forms and Fees rule to include subscription holders as a list type for the purpose of list requests, and establish provisions that governmental entities may obtain lists free of charge, and that political parties and elected officials are required to pay full-fee charges to obtain license and subscription holder lists; amend an Archery Restrictions rule to allow archery hunters to use and possess mechanical broadheads with a cutting diameter no greater than 2 inches; amend Waterfowl Hunting Seasons rules to establish an August Management Take to allow for the taking of resident Canada geese as authorized by the U.S. Fish and Wildlife Service and to establish a resident only license, season dates, open areas (Brookings, Clark,

		Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake McCook, Marshall, Minnehaha, Moody and Roberts counties), daily bag and possession limits, and requirements and restrictions, including establishing shooting hours and requiring a state migratory bird certification (federal waterfowl stamp would not be required); and amend a Dog Training rule to transfer authority to issue special permits to individuals who use horses to train dogs on publicly owned land from the department to the government agency that holds land management authority over the publicly owned land; 36 SDR 161.
5-11-2010	Social Services: Economic Assistance	Amend rules to expand the list of sources available for determining Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) eligibility; clarify eligibility and payment requirements related to the Auxiliary Placement Program; and update medical eligibility requirements to comply with federal provisions; 36 SDR 162.
5-11-2010	Social Services: Economic Assistance	Repeal obsolete rules within the Division of Economic Assistance relating to assistance payments; 36 SDR 163.
5-12-2010	Attorney General: Law Enforcement Officers Standards and Training Commission	Amend a rule to provide for the issuance of a certificate to a canine team upon completion of certification standards and repeal a rule to clarify the Commission's decision on only accepting authorized individuals into training programs; 36 SDR 157.
5-12-2010	Secretary of State: Board of Elections	Amend rules to provide notice to felons being removed from the voter registration list, provide additional information on the municipal election cancellation notice, provide notice regarding felon disqualification, clarify ballot wording, update water development petition language, provide a form for precinct committeemen and women, require additional information on the absentee ballot log, add language to absentee voting materials to accommodate overseas voters requesting voting materials electronically and provide an uncounted absentee ballot envelope; 36 SDR 161.

5-13-2010	Revenue and Regulation: Division of Banking	Amend the record keeping requirements for trust companies chartered and regulated by the Division of Banking; reduce the number of copies of paper application forms required to be submitted to the Division of Banking for review and to require an electronic version of all application materials submitted; provide a definition for the term private trust company; provide additional guidance to South Dakota trust companies with regard to trust administration duties that may be done in South Dakota to comply with new statutory requirements; repeal duplicative language dealing with the background investigation process for mortgage license applicants which is now detailed in South Dakota law; establish surety bond requirements for mortgage licensees that take into consideration the dollar amount of loans originated, brokered, or serviced by mortgage licensees in South Dakota; increase the records retention timeframe from three years to five years for mortgage licensees; and clarify that only loan information specific to the licensees' activities in South Dakota are required to be reported on the mortgage call report for South Dakota; 36 SDR 157.
5-21-2010	Human Services: Board of Social Work Examiners	Amend a rule to increase the exam fee for Social Worker Associate (Associate), Social Worker (Bachelor) and Certified Social Worker (Master) levels from \$200 to \$255 and for Certified Social Worker – Private Independent Practice (Clinical and Advanced Generalist) level from \$200 to \$285; 36 SDR 161.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 20, 2010, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – SDSM&T, 501 E. St. Joseph St., Room CB108; Sioux Falls – SFUC, 2205 Career Ave., Room 282 S; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2010 interim: June 8, July 20, August 31, September 28, November 17, and December 20.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

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