

# REGISTER



## South Dakota Legislative Research Council

Volume 40

Tuesday, 8:00 a.m., November 12, 2013

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

**Department of Social Services: Division of Adult Services and Aging:** (November 4, 2013) intends to amend rules to repeal obsolete provisions, update definitions, update internal references, update criteria for adult protective services eligibility, outlines definitions, eligibility, and assessment requirements for home and community-based services, describe requirements for the individual care plan, outlines definitions and eligibility for the caregiver support program, describes support services covered under the caregiver support program. The general authority for these rules, as cited by the department, is SDCL §§ 28-1-45 and 28-6-1.

A public hearing will be held in the Kneip Conference Room 2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on November 26, 2013, at 10:30 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 December 6, 2013, 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. 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: Division of Medical Services:** (November 4, 2013) intends to amend rules to make language cleanup changes, update references, remove outdated references, update certain information to the department's website, update list of noncovered services and prior authorizations, update cost sharing requirements for certain services, clarify billing and service requirements, clarify readmission time periods for same or related diagnoses, repeal obsolete provisions, and include psychiatric evaluations in the list of approved documentation for admission to certain facilities. The general authority for these rules, as cited by the department, is SDCL §§ 28-1-50, 28-6-1, 28-6-1.1, 28-6A-12, and 42 USC § 1396d.

A public hearing will be held in the Kneip Conference Room 2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on November 26, 2013, at 11:00 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 December 6, 2013, 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. 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 Human Services: South Dakota Developmental Center; Department of Health; and Department of Social Services:**

(November 5, 2013) intends to amend rules to remove all references to "mental retardation" or "mentally retarded" from Department of Human Services, Department of Social Services, and Department of Health's administrative rules and replace them with "intellectual disability". The general authority for these rules, as cited by the department, is SDCL §§ 27B-2-25, 27B-2-26, 28-1-45, 28-6-1, 28-6-23, 28-6-24, 28-7-2, and 34-12G-15.

A public hearing will be held in the Large Conference Room at the Department of Human Services, Hillview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on November 27, 2013, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to Eve Smith, Administrative Rules Coordinator, Department of Human Services, Hillview Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed rules may also be obtained from the following website at <http://dhs.sd.gov/> or by emailing [eve.smith@state.sd.us](mailto:eve.smith@state.sd.us). Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Material sent by mail must reach the Department of Human Services by 5 p.m. on December 9, 2013, to be considered. 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) 773-5990 or (605) 773-6412 TTY within 48 hours of the hearing.

**Secretary of State:** (November 7, 2013) intends to amend rules to establish a fee for absentee voter registration information obtained from the statewide voter registration file per election. The general authority for these rules, as cited by the office, is SDCL § 12-4-39.

A public hearing will be held in Suite 204, 500 East Capitol, State Capitol, Pierre, South Dakota, on December 2, 2013, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501. Written comments must be received on or before December 12, 2013, 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.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:** None

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**

11-13-2013	Health: Board of Medical and Osteopathic Examiners	Adopt rules to create the standards in which an applicant can be issued a license through reciprocity and to allow provisional licenses to those requesting the examination waiver based on ABMS Board Certification; 40 SDR 73.
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<p>11-15-2013</p>	<p>Labor and Regulation: Appraiser Certification Program</p>	<p>Amend rules to require notice of change of email address; include in the appraiser application a requirement to disclose email address, if available; completion of the supervisory and state-registered appraiser education program before supervision begins; state that nonclient appraisal experience is allowed for experience credit; change supervising to supervisory appraiser; adoption of the new edition of the uniform standards; change a cited statute; provide update conditions for continuing education; and allow partial hours for continuing education under certain circumstances; 40 SDR 73.</p>
<p>11-18-2013</p>	<p>Education: Board of Education</p>	<p>Adopt a Funding rule to allow school districts to use special education funds to pay for administrative expenses incurred by educational service cooperatives as a result of providing special education service; 40 SDR 77.</p>
<p>11-20-2013</p>	<p>Revenue: Commission on Gaming</p>	<p>Amend Racing rules to establish a deadline for filing a request for a hearing and for the stewards to issue a final ruling as well as the procedures for requesting the hearing; repeal a rule regarding the approval required for communication devices; repeal a rule to relieve track management of the cost of installing a telephone landline in the commission office for a few weeks a year; require tracks to provide safety vests to track employees while on duty; update current industry practices and terminology; require the person who enters a horse in a race or who accepts such an entry by telephone to sign the entry form and to reflect current industry practices and terminology; eliminate unnecessary record keeping regarding Furosemide; eliminate a bleeder list; remove a requirement to conduct an endoscopic examination at the race track within one hour of a race or exercise period; remove the requirement to maintain unnecessary records; give more time for changes of medication treatment to be reported to the betting public and the elimination of the "oath" requirement; repeal a rule that conflicts with ARSD 20:04:27:13.07; eliminate reference to "the official bleeder list" which is no longer maintained; allow veterinarians to</p>

		<p>administer Furosemide to prevent bleeding in race horses in a more efficient manner and eliminates the requirement for keeping unnecessary records; inform persons of the procedures to request a hearing on disqualification; amend Gaming Rules to clarify minimum bankroll requirements; change the length of record retention from five years to three years; allow the linking of progressive slot machines in Deadwood, SD, to progressive slot machines located in other jurisdictions where such games are allowed; and provide procedures to allow third-party connections to licensees on-line monitoring and control systems; 40 SDR 85.</p>
<p>11-20-2013</p>	<p>Agriculture: Brand Board</p>	<p>Amend rules to authorize the issuance of annual permits for the transportation of rodeo stock; 40 SDR 86.</p>
<p>11-21-2013</p>	<p>Transportation</p>	<p>Amend a General Provisions rule to add definitions for construction contract and prospective bidder and delete the definition for department contract; amend Classification and Bidding Capacity Rating rules to allow the Secretary of Transportation to appoint a temporary alternate to the classification and rating committee if a member is unavailable, eliminate the requirement for the department to maintain a list of all bidding proposals for every letting, increase the threshold for requiring prequalification of bidders from \$100,000 to \$200,000, change the terms "contractor" and "applicant" to "prospective bidder", require a citation for specific statutory exemption from disclosure of confidential financial records, work classifications are being amended to update work types and add a classification for bridge painting, establish the maximum per contract bidding capacity when an audited financial statement is submitted, amend the effective period for a bidding capacity rating to coincide with the expiration date of the surety bond or expiration of the certificate of surety and increase the permissible extension period from 30 to 60 days, clarify that a reduction in bidding capacity for uncompleted work on other contracts is for bonded work, clarify allowable deduction factors and how deductions may be</p>

		<p>applied, increase the maximum possible period of ineligibility and conform to federal requirements, define the potential maximum period of ineligibility, update the term "prospective bidder" and make additional clarifications, provide for appeal by a timely request to the Secretary to review a determination of the classification committee, and a decision within 5 days thereafter, rather than a formal Chapter 1-26 hearing process, clarify when the new prequalification statement must be received, clarify the time period for submission of a new prequalification statement, establish the process for a prospective bidder to retain or revise their prequalification status, clarify what prior work experience will be considered by the committee when establishing a bidding capacity rating, amend Bid Proposals rules to eliminate superfluous provisions and include Region lettings, update the term "prospective bidder", repeal a redundant rule regarding preference among multiple bid proposals, repeal a rule that is no longer necessary due to the new electronic bidding system; amend Suspension and Debarment rules to update language as reflected in the new definitions, clarify the suspension is from bidding construction contracts, eliminate reference to a hearing officer, clarify the effective date of debarment, clarify that only one of the three circumstances need to apply in a particular situation, correct references to other rules and remove the restriction on subcontracting, establish the factors for which the department can suspend or deny a contractor's prequalification status, establish the period of suspension of a contractor's prequalification status, establish the procedure by which a suspended contractor may restore their prequalified status following the suspension period, and repeal Highway Construction Contract Requirements rules because the requirements are in the Standard Specifications for Roads and Bridges; 40 SDR 77.</p>
<p>11-22-2013</p>	<p>Labor and Regulation: Board of Technical Professions</p>	<p>Amend rules to add deadlines for national examinations that will be moved to computer based testing (CBT); affirm deadlines to the</p>

		Board's own examinations; remove fees collected by the Board for examinations that it no longer proctors; establish a fee in the event of an applicant having to retake the petroleum release assessor or remediator examination; and clarify Comity licensure and examination requirements; 40 SDR 77.
11-26-2013	Revenue: Property and Special Taxes	Amend rules to update manuals to current version and ensure that the language of the rules is consistent; 40 SDR 85.
11-26-2013	Social Services: Adult Services and Aging	Amend rules to repeal obsolete provisions, update definitions, update internal references, update criteria for adult protective services eligibility, outlines definitions, eligibility, and assessment requirements for home and community-based services, describe requirements for the individual care plan, outlines definitions and eligibility for the caregiver support program, describes support services covered under the caregiver support program; 40 SDR 93.
11-26-2013	Social Services: Medical Services	Amend rules to make language cleanup changes, update references, remove outdated references, update certain information to the department's website, update list of noncovered services and prior authorizations, update cost sharing requirements for certain services, clarify billing and service requirements, clarify readmission time periods for same or related diagnoses, repeal obsolete provisions, and include psychiatric evaluations in the list of approved documentation for admission to certain facilities; 40 SDR 93.
11-27-2013	Human Services: South Dakota Developmental Center; Health; and Social Services	Amend rules to remove all references to "mental retardation" or "mentally retarded" from Department of Human Services, Department of Social Services, and Department of Health's administrative rules and replace them with "intellectual disability"; 40 SDR 94.
12-2-2013	Secretary of State	Amend rules to establish a fee for absentee voter registration information obtained from the statewide voter registration file per election; 40 SDR 94.

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 12, 2013, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Huron – DHS, 2361 Dakota Ave. S; Mitchell – Mitchel Technical Institute, 1800 E. Spruce, Room TC 155; Rapid City – SD School of Mines & Technology, 501 E. St. Joseph St., Room BC 109; and Yankton – DOT, 1306 W. 31<sup>st</sup> St. The committee chair has set the following tentative meeting schedule for the 2013 interim: December 17.

**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>.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 40 are \$25. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).