



Legislative Research Council

SOUTH DAKOTA CODE COMMISSION MINUTES

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Ninety-fifth Meeting
Thursday, April 15, 2004

LRC Conference Room
Third Floor, State Capitol
Pierre, SD

The ninety-fifth meeting of the South Dakota Code Commission was called to order by Chair Michael DeMersseman at 12:03 p.m., April 15, 2004, in the LRC Conference Room on the Third Floor of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Commissioners Michael DeMersseman, Tom Lee, Lee McCahren, and Matt McCaulley (via telephone). Commissioner Eric Bogue joined the meeting at 12:08 p.m. (via telephone).

In attendance as an interested party was Mr. Lary Zastrow, State Bar of South Dakota. Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council. For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Commissioner McCahren moved, seconded by Commissioner Lee, to approve the minutes of the November 14, 2003, meeting. Motion prevailed unanimously on a roll call vote with 4 ayes, 1 excused. Members voting aye: DeMersseman, Lee, McCahren, and McCaulley. Excused: Bogue.

Agenda Items

Chair DeMersseman stated that the general purpose of the meeting was to discuss items regarding the publishing of the South Dakota Codified Laws (Code) by West.

Code Book Covers - A sample redesigned book cover was distributed (**Document #1**). Commissioner Lee stated that the middle section of the State seal should be clearer on the proposed book cover. Following a brief discussion, it was decided that Mr. Decker and Mr. Zastrow would work with West to modify the detail on the seal.

Commissioner McCahren moved, seconded by Commissioner Bogue, that the color of the redesigned book cover, as submitted by West, be approved. Motion prevailed unanimously on a roll call vote with 5 ayes. Members voting aye: Bogue, DeMersseman, Lee, McCahren, and McCaulley.

Court Rules Volume Contents - Mr. Decker explained that Lexis had published the Court Rules Volume separately from the Code and that West plans to continue with it. Mr. Decker stated that he emailed Justice Steven Zinter and Judge Tim Tucker asking for comments (**Document #2**) and they had no changes. Chair DeMersseman stated that he saw no problem with the contents as proposed.

Number of Volumes - Chair DeMersseman stated the current Code has 33 volumes; West is proposing 34. Mr. Decker stated that West proposes 700-page volumes using a different weight paper. A sample of the proposed paper was distributed to those members present (a volume from New Mexico, **Document #3**). The sample had been shown to others during the legislative session. Chair DeMersseman stated that the use of the finer paper, as used in New Mexico's volume, was acceptable to the Commission.

Front Matter - Mr. Decker distributed a handout entitled "South Dakota Codified Laws" (**Document #4**). He explained that West is proposing to print these pages in the front of each volume. Commissioner McCaulley stated he had concerns with pages IX, XI, and XII as they are advertising for West. Commissioner Lee questioned if there was a need to discuss on-line products when the user was using a hard copy. Commissioner McCahren stated that people other than attorneys use the Code and that maybe the information on pages XI and XII concerning the Westlaw electronic research was good information. Commissioner Bogue agreed with Commissioner McCaulley, pages IX, XI, and XII were advertising.

Commissioner McCaulley moved, seconded by Commissioner Lee, that the "Front Matter" precludes any advertising from West and that pages IX, XI, and XII be removed. Motion prevailed unanimously on a roll call vote with 5 ayes. Members voting aye: Bogue, DeMersseman, Lee, McCahren, and McCaulley.

Certification Page - Mr. Decker distributed a sample "Certification of South Dakota Statute Compilation Commission" from Volume 1, 1978 (**Document #5**). He stated that the question before the Commission is should the certification be printed at the beginning of each replacement volume or at the beginning of the entire Code. He proposed that only paragraphs one and three be used. Commissioner McCahren stated that the certification should be printed in all of the volumes. Mr. Zastrow agreed and stated that all commissioners' signatures should be included on the page.

Commissioner McCahren moved, seconded by Commissioner Lee, that the "Certification" be printed in each volume and that Mr. Decker, as Code Counsel, and all of the Commissioners sign the certification. Motion prevailed unanimously on a roll call vote with 5 ayes. Members voting aye: Bogue, DeMersseman, Lee, McCahren, and McCaulley.

Division of Volumes - Mr. Decker distributed a listing of the proposed "Division of Volumes" (**Document #6**). He stated that because the annotations are back in full, there are more pages to the Code. Mr. Zastrow commented that he did not like to see split chapters. However, he would not want the paper to be any thinner. Commissioner Bogue inquired if there is a maximum number anywhere for down the road. Mr. Decker responded that once the pocket parts are more than 25% of the bound volume (200 pages), the volume would be considered for replacement.

Other Items

In response to Mr. Zastrow's inquiry as to when the new Code would be shipped, Mr. Decker replied that West is planning on early June. Mr. Decker also stated that West will be manufacturing a CD Rom.

Mr. Zastrow asked if the contract provides for the Legislative Research Council (LRC) to provide the CD Rom for state agency use on the state intranet computer system. Mr. Decker stated that the CD Rom will no longer be on the State's intranet site for use by state agencies. The LRC will continue to provide the codified laws and administrative rules on its Web site.

Mr. Zastrow complimented Mr. Decker for a job well done during the transition between publishers.

Mr. Zastrow informed the commission that the Thursday night picnic at the State Bar Convention is being sponsored by West.

Chair DeMersseman stated that the next meeting will be Friday, June 18, 2004, in Pierre in conjunction with the State Bar Convention. Agenda items will include feedback on the new Code books.

Commissioner Lee moved, seconded by Commissioner McCahren, to adjourn. Motion prevailed unanimously on a roll call vote with 5 ayes. Members voting aye: Bogue, DeMersseman, Lee, McCahren, and McCaulley.

The meeting adjourned at 12:38 p.m.

