



# Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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**Two Hundred Fifty-third Meeting  
Wednesday  
November 17, 2004**

**Room 413  
State Capitol Building  
Pierre, South Dakota**

The two hundred fifty-third meeting of the Rules Review Committee was called to order by Vice-Chair Representative Jean Hunhoff at 10:05 a.m., November 17, 2004, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bogue (appearing telephonically) and H. Paul Dennert (appearing telephonically); and Representatives Richard Engels (appearing telephonically), Jean Hunhoff, and Orville Smidt (appearing telephonically). Senator Royal "Mac" McCracken was excused.

Staff members present included 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 (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

### **Approval of Minutes**

*Senator Bogue moved, seconded by Senator Dennert, that the minutes of the October 15, 2004, meeting be approved. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Member excused: McCracken.*

### **Staff Report**

Mr. Decker stated that Senator McCracken was unable to attend the meeting because of medical reasons.

For clarification purposes, Mr. Decker stated that the committee may want to comment on the special hearing that the Department of Game, Fish and Parks held regarding the proposed fee increases and whether or not it satisfied the committee's directive to appear specifically before the Appropriations Committee.

*Representative Engels moved, seconded by Representative Hunhoff, that the special meeting held by the Department of Game, Fish and Parks on November 4, 2004, regarding*

*the proposed fee increases, was sufficient to meet the directive to the department. Motion prevailed on a roll call vote with 4 ayes, 1 nay, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, and Smidt. Member voting nay: Bogue. Member excused: McCracken.*

## **Rules Reviewed**

**Department of Game, Fish and Parks** - Amend rules to increase the fee for certain licenses and permits (hunting, fishing, falconry, fur dealer, and taxidermist).

**Mr. Doug Hansen** stated that an additional public hearing was held regarding the fee increases, additional information was sent to the Rules Review Committee members, and the Game, Fish and Parks Commission had made no changes to the proposed rules.

In response to Representative Smidt's question on how the fee increase process will be changed in the future, **Mr. Ken Barker**, Belle Fourche, Chair of the Game, Fish and Parks Commission, stated that the commission has decided to look at fees every two years. In the future they hope to do a better job of it. He stated that the commission has the statutory authority to raise fees; however, they are willing to share information with the Appropriations Committee and the Legislature and will do so on a regular basis.

In response to Representative Smidt's statement that the cash reserve balance will remain an issue, Mr. Barker stated that the commission reexamined this issue and the principle behind it. They feel it is a user based fund and that the current balance of approximately twenty-two percent is below the fifty percent balance for which the commission strives. Mr. Barker stated that the discussions that have evolved around the fee increases have been good and so is the scrutiny that the department's budget goes through; however, he takes exception when they become a political football.

Representative Smidt also commented that the walk-in program has been very good and that the discussion about adding longer lease terms and increasing the payment level is good information to know.

In response to Senator Dennert's question if the Legislature has any oversight regarding the spending authority of the commission, Mr. Barker responded that yes, the Legislature has to approve the bonding authority that will be necessary to make the improvements to the three fish hatcheries. He stated that the commission plans to ask for the bonding authority during the next session.

Senator Dennert also expressed concern whether the services provided by the department are really necessary for the sportsman in South Dakota. Mr. Barker stated that the commission always asks themselves the same question.

In response to a question from Senator Dennert regarding the printing of the handbook that included the proposed fee increases, Mr. Hansen stated that the book was printed

immediately following the commission meeting in Freeman, prior to the first Rules Review hearing.

Senator Bogue stated that he had received comments from a couple of constituents following the news story on the fish hatchery; their concern was that if this was a user based fee, why are not fishing licenses being increased? Mr. Barker responded that not every service can be user based because the management costs exceed the revenue in certain areas; overall the budget of the Wildlife Division is user based. Mr. Hansen responded that the resident and non-resident fishing license fees have been increased.

*Senator Bogue moved, seconded by Senator Dennert, to approve the rules proposed by the Department of Game, Fish and Parks.*

Senator Bogue stated that he did not think that anyone on the Rules Review Committee questioned the authority of the commission in raising the fees or their logic; the issue was if there was a need for additional revenue when there is a substantial cash reserve balance. He stated the employees and the commission have shown how to manage the wildlife in South Dakota. He stressed that the process was the issue and the accusation of it being a political football was untrue. It just happened to coincide with the political cycle. He stated it is important for this committee to know what an agency has for a reserve balance when they are seeking a fee increase and if this issue was brought before the Appropriations Committee. It is good fiscal management for the state. He stated he voted against the motion to accept the November 4 meeting as adequate because it is within the authority of the Rules Review Committee to request a public hearing of an agency. Because the commission chose not to hold the meeting before the Appropriations Committee, he stated it could be interpreted as disobedience to the interim committee. However, he stated that he was supporting the fee increase because it is within the statutory authority of the commission to make the fee increase.

Representative Engels stated that he agreed with Senator Bogue's comments and that he expects to see legislation this year regarding the budget authority of the department.

Representative Hunhoff stated that she agreed with Senator Bogue and Representative Engels. She stated that the process was good and that the information received has been greatly improved. She stated that the Rules Review Committee has the responsibility to see that the rationale and justification are there and that in the future, she thinks the communication process will be greatly improved.

Senator Dennert stated that he had not received any new information since the last meeting. He thought this special meeting was unnecessary and that the fees should not have been held up so long.

Senator Bogue responded to Senator Dennert that there had been no additional new information since the second meeting; however, an additional public hearing had been held.

He stated that as a committee, they do not have the ability to request additional information ahead of time from the agencies.

*Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Member excused: McCracken.*

#### **Next Meeting Date**

Mr. Decker stated that the next committee meeting would be Tuesday, December 7, 2004, at 9 a.m. He informed the committee that a few agencies have filed rules that will not be ready for the December 7 meeting; thus, another meeting may need to be scheduled prior to session. Representative Smidt stated he will be unable to attend the December 7 meeting.

#### **Adjournment**

*Senator Bogue moved, seconded by Representative Smidt, that the meeting adjourn. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Bogue, Dennert, Engels, Hunhoff, and Smidt. Member excused: McCracken.*

Vice-Chair Hunhoff adjourned the meeting at 11:03 a.m.



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