



Legislative Research Council

RULES REVIEW COMMITTEE MINUTES

Two Hundred Sixty-fourth Meeting
Tuesday
December 6, 2005

Room 413
State Capitol Building
Pierre, South Dakota

The two hundred sixty-fourth meeting of the Rules Review Committee was called to order by Chair Representative Jean Hunhoff at 9:05 a.m. CT, December 6, 2005, 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 and Jim Hundstad; Representatives Jean Hunhoff (Chair) and Bill Thompson. Senator Orville Smidt (Vice-Chair) (appearing telephonically) and Representative Roger Hunt (appearing telephonically) joined the meeting following the roll call.

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 Hundstad moved, seconded by Senator Bogue, that the minutes of the October 18, 2005, meeting be approved. Motion prevailed unanimously on a voice vote.

Rules Reviewed

Attorney General: Law Enforcement Officers Standards and Training Commission -
Amend a rule to clarify who is eligible for reciprocity as a law enforcement officer.

Mr. Paul Bachand, Pierre, attorney for the Commission, explained the proposed rule change.

Senator Smidt moved, seconded by Representative Thompson, to approve the rule proposed by the Attorney General: Law Enforcement Officers Standards and Training Commission. Motion prevailed on a roll call vote with 4 ayes, 2 excused. Members voting aye: Hundstad, Hunhoff, Smidt, and Thompson. Members excused: Bogue and Hunt.

Department of Game, Fish and Parks - Amend the continuous length of time (15 days) a person or group may camp at a first come-first serve site at Lewis & Clark Recreation Area w/o permission; repeal portions of park entrance license exemptions at certain areas of the Lewis & Clark Recreation Area; establish the daily camping permit fee of \$7.62 at Rocky Point Recreation Area by designating it as a "modern campground fee" area; and modify fees for canceling a campsite through the reservation center from \$10 to 1 night's camping fee, establish a \$15 fee for canceling a reservation for a camping cabin or rent-a-camper through the call center or upon arrival at the park, and modify the cancellation fee for French Creek Horse Camp from \$10 to 1 night's camping fee if cancellation is received 30 days or more in advance.

Mr. Doug Hofer explained the proposed rules for the Division of Parks and Recreation.

Senator Smidt moved, seconded by Senator Hundstad, to approve the rules proposed by the Department of Game, Fish and Parks: Division of Parks and Recreation. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Hundstad, Hunhoff, Hunt, Smidt, and Thompson. Member excused: Bogue.

Department of Game, Fish and Parks - Modify the definition of "inland waters" to correct an error and to exclude the "SD-Iowa", "SD-Minnesota" and "SD-Nebraska" boundary waters; prohibit release of non-native mollusks into waters of the state without authorization; prohibit statewide the taking/keeping daily of more than 1 walleye, sauger, or walleye-sauger (or combination) 20 inches or longer except in certain bodies of water (including Belle Fourche Reservoir), Diamond, Twin, and Beaver Lakes in Minnehaha County, and Reetz Lake; prohibit statewide the taking/keeping of any muskellunge less than 40 inches long; prohibit taking/keeping of largemouth bass from Sheridan Lake less than 15 inches long; repeal the catch and release requirement at Lake Haven Crossing Pond; permit seines/dip nets in taking smelt in the Missouri River (and impoundments) – 5 gallon daily limit; require catch and release of trout caught in Rapid Creek within the boundaries of Meadowbrook Gold Course; repeal the limits and size restrictions for northern pike specific to LaCreek National Wildlife Refuge; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Oahe to 4 daily and 12 in possession and remove the 15 inch minimum size restriction; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Sharpe, Lake Francis Case, and the Missouri River from Ft. Randall Dam to the SD/Nebraska state line to 4 daily and modify the maximum size restriction to no more than 1 walleye 20 inches or longer taken daily; establish the daily limit of 10 for bluegill, sunfish, crappie, and perch in Firesteel Creek from Lake Mitchell to the Loomis oil road; modify dates spearing of rough fish is permitted on certain inland waters 24 hours a day from June 1 through August 31 to May 1 through August 31; permit spearing rough fish in the SD/Nebraska boundary waters 24 hours a day from April 1 through August 31; permit spearing game fish from sunrise to sunset at Lakes Whitewood, Preston, Spirit, Albert, John, Mary, and Norden from December 1 through the end of February (unless the last day of February falls on a Saturday – the

season extends through March 1); modify the opening date for spearing game fish from July 1 of each year to June 15 at: Lewis & Clark Lake from Gavins Point dam upstream to the Nebraska-South Dakota state line, Lake Francis Case from Fort Randall Dam upstream to the I-90 bridge, Lake Sharpe from the big Bend Dam upstream to US Highway 14 bridge at Pierre, and Lake Oahe from Oahe Dam upstream to the US Highway 212 bridge; prohibit taking bait from the Clubhouse/Fourmile Game Production Area from May 1 through July 31; and update reference to published material containing health inspection procedures from the "4th edition, 1994" to the "(2004 Edition)."

Mr. Doug Hansen reviewed the proposed rules for the Division of Wildlife.

Senator Hundstad moved, seconded by Senator Smidt, to approve the rules proposed by the Department of Game, Fish and Parks: Division of Wildlife. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Department of Labor: Public Utilities Commission – Amend rules to set forth the requirements for filing an application for a permit to construct wind energy facilities and amend some requirements applying to the siting of energy conversion and transmission facilities.

Ms. Rolayne Wiest explained the proposed rules. The rules were the result of Senate Bill 17 from the 2005 Legislative Session.

Representative Thompson moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Labor: Public Utilities Commission. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Department of Education: Board of Education – Amend rules that will change the current postsecondary institute funding distribution formula from one based primarily on completers to one based on the number of Full Time Equivalent students (FTE).

Secretary Rick Melmer, Secretary of the Department of Education, and **Mr. Mitch Richter**, representing the Technical Institutes, explained the proposed rule changes and how they will affect the postsecondary institutes.

Following a brief discussion on the definition of "year", it was suggested that the board more clearly define "year" the next time rules are amended.

Representative Hunhoff moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Education: Board of Education regarding the postsecondary

rules. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Department of Education: Board of Education – Require that authority to act applications be submitted online and to allow educators working under authorities to act to obtain certification or endorsement in the area for which the authority to act is being requested by taking and passing the appropriate Praxis II content test rather than completing the coursework; and create administrative rules governing distance education programs throughout the state.

Ms. Melody Schopp explained the proposed rules.

Representative Hunt voiced concern with ARSD 24:43:12:05 because the department is not required to state the reason for the department's action within the thirty calendar days. Senator Bogue suggested that the department cross reference their existing practice for responding to an appeal the next time the rules are amended.

In response to Senator Bogue's question if the \$100 issuance fee would apply to South Dakota K-12 schools sharing courses on-line, Ms. Schopp stated that it was not their intent to charge the fee and that an exemption for South Dakota K-12 schools would clarify the issue.

Senator Smidt moved, seconded by Representative Thompson, to approve the rules proposed by the Department of Education: Board of Education. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Bogue, Hunhoff, Hunt, Smidt, and Thompson. Member excused: Hundstad.

Department of Transportation – Amend speed zones on South Dakota Highway 50 through the city of Vermillion in Clay County and on U.S. Highway 16 through the city of Presho in Lyman County; adopt a rule to prohibit parking along State Trunk Highway 11 in Corson during snow events; amend rules to provide a new electronic bidding system to comport with modern business practices; and amend speed zones in Custer and Fall River Counties on U. S. Highway 18, U.S. Highway 385 and State Trunk Highway 79 from Nebraska to Hermosa to allow for a maximum of 70 miles per hour along rural, divided segments of highway.

Mr. Bill Nevin reviewed the proposed rules and answered questions regarding the electronic bidding process.

Representative Hunhoff moved, seconded by Senator Bogue, to approve the rules proposed by the Department of Transportation. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Department of Agriculture – Amend a rule to change the dates of the South Dakota State Fair.

Secretary Larry Gabriel, Secretary of the Department of Agriculture, explained the proposed rule change. The fair will be start on the Thursday prior to Labor Day and end on Labor Day.

Representative Hunt moved, seconded by Senator Bogue, to approve the rule proposed by the Department of Agriculture. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Department of Revenue and Regulation: Appraisers – Amend rules to add definition for distance education; capitalize Appraisal Subcommittee; specify that completion of the Appraisal Foundation's 7-hour National Uniform Standards of Professional Appraisal Practice Update Course is required for continuing education; require appraisers to comply with administrative rule regarding competency; allow state-registered appraisers to have more than one supervisor; limit supervisors to only three trainees; require supervisors to be in good standing and not subject to disciplinary action by the department for the past two years; require state-registered appraisers to report name of supervisors; describe supervisors' responsibilities; national examination only valid for 24 months; no alternative to successful completion of the national examination; no longer extension given for sitting for the national examination; delete unnecessary upgrade language for state-registered appraiser; reduce experience requirement from 24 months to 12 months for state-licensed classification; delete no time limit for obtaining experience; adopt acceptable experience effective January 1, 2008; require separate appraisal assignment logs for each supervisor; describe experience that may be claimed; set time limit for obtaining experience; describe requirements for experience verification; adopt education requirements effective January 1, 2008, for the registered, licensed and certified classifications; repeal credit allowed for challenge examination; prohibit substitution of education by experience; correct date in reference to the applicable edition of the uniform standards; change precertification to qualifying education; clarify education deferral timeframe; add additional description for acceptable continuing education courses; revise the continuing education course topics; allow field trips for continuing education hours; clarify requirements for qualifying education credit; allow continuing education credit for activities other than as a student; revise sources of education; remove individual types of courses and replace with general term for all courses that are acceptable without state review; establish requirements for acceptable distance education courses; and remove individual types of courses and replace with general term for all courses for approval.

Ms. Sherry Bren and **Mr. Jerry Hulm**, Timber Lake, a member of the advisory council, reviewed the proposed rule changes.

Senator Bogue moved, seconded by Senator Hundstad, to approve the rules proposed by the Department of Revenue and Regulation: Appraisers. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Secretary of State: Board of Elections – Amend rules to change the number of instructions to voters posters placed at each polling place; remove op-tech ballot instructions from the posters, from the ballot instructions, and from instructions on how to count imperfectly marked optical scan ballots; provide instructions for new voting machines; add new voting machines and name of new federal agency that certifies voting equipment to the distribution requirements; update absentee ballot application and add the authorization to use a computer absentee ballot log.

Secretary of State Chris Nelson explained the proposed rule changes.

Representative Hunt moved, seconded by Senator Smidt, to approve the rules proposed by the Secretary of State: Board of Elections. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.

Meeting Schedule

The next meeting for the Rules Review Committee will be on Monday, January 9, 2006, at 1:00 p.m. in Room 413 of the State Capitol in Pierre.

Senator Smidt moved, seconded by Representative Hunt, that the meeting be adjourned. Motion prevailed unanimously on a voice vote.

The chair adjourned the meeting at 11:10 a.m.

