



Legislative Research Council

RULES REVIEW COMMITTEE MINUTES

**Three hundred fifteenth meeting
Tuesday
July 12, 2011**

**Room 414 Studio A
State Capitol
Pierre, South Dakota**

The three hundred fifteenth meeting of the Rules Review Committee was called to order by Chair Senator Jean Hunhoff at 9:26 a.m. CDT, July 12, 2011, in Studio A at the State Capitol, Pierre, South Dakota, and via the Digital Dakota Network (DDN) at the following locations: Northern State University, 1200 S. Jay St., Room Lib 117, Aberdeen, South Dakota; Department of Human Services, 2361 Dakota Ave. S, Huron, South Dakota; Mitchell Technical Institute, 1800 E. Spruce, Room TC 155, Mitchell, South Dakota; SD School of Mines and Technology, 501 E. St. Joseph St., Room CB 109, Rapid City, South Dakota; University Center, 4801 N. Career Ave., North Admin Building, Room 145N, Sioux Falls, South Dakota; and Department of Transportation, 1306 W. 31st St., Yankton, South Dakota. The Pierre meeting room was changed to Studio A due to technical difficulties. The Sioux Falls DDN site was also changed to the location noted.

A quorum was determined with the following members answering the roll call: Senators Jean Hunhoff (Chair) and Mike Vehle; and Representatives Peggy Gibson, Roger Hunt, and R. Shawn Tornow (Vice Chair). Senator Angie Buhl was excused. Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary. All members appeared at DDN locations except Senator Vehle who was in Pierre.

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. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

Approval of Minutes

Representative Hunt moved, seconded by Representative Gibson, that the minutes of the June 7, 2011, meeting be approved. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Rules Reviewed

Department of Health: Division of Health and Medical Services – Amend rules to revise the South Dakota reportable disease list, reduce reporting of latent tuberculosis infection to high-risk individuals only, and inventory the infectious agents for submission.

Ms. Colleen Winter and **Dr. Lon Kightlinger** reviewed the proposed rules.

Representative Hunt moved, seconded by Senator Vehle, to approve the rules proposed by the Department of Health: Division of Health and Medical Services. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Department of Labor and Regulation: Division of Insurance – Adopt an EMERGENCY rule to establish open enrollment periods for those under age 19 to have access to health insurance without medical underwriting. *(For informational purposes only – no committee action will be taken.)*

Mr. Randy Moses explained the reason for the emergency rule.

Department of Environment and Natural Resources: Board of Water and Natural Resources – Amend rules to redistrict the director areas of seven water development districts and repeal rules due to the end of the American Recovery and Reinvestment Act (ARRA).

Mr. Pete Jahraus and **Mr. James Feeney** reviewed the proposed rules.

Public Testimony

Mr. Jay Gilbertson, Brookings, East Dakota Water Development District, spoke in support of the proposed rules regarding the redistricting of the water development districts. He noted that they are aware that there will be minor adjustments made in the Sioux Falls and Rapid City areas following the legislative redistricting.

Representative Tornow moved, seconded by Senator Vehle, to approve the redistricting rules proposed by the Department of Environment and Natural Resources: Board of Water and Natural Resources. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Senator Vehle moved, seconded by Representative Hunt, to approve the repealing of rules regarding the American Recovery and Reinvestment Act proposed by the Department of Environment and Natural Resources: Board of Water and Natural Resources. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Bureau of Personnel: Career Service Commission – Amend rules to clarify that the definition of "immediate family" includes step-brothers and step-sisters; clarify that a "temporary employee" is not entitled to benefits or other status rights; set time limits on the length of time that an employee is designated as "severely disabled," for purposes of the disability preference used by the Bureau of Personnel when the appointing authority must interview an applicant; revise outdated terminology; clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent; clarify the criteria used in a layoff,

the approval process by the Bureau of Personnel, and repeals the rule allowing an appeal of a layoff; update the terminology relative to the accrual, and allowed use of vacation leave, sick leave, and personal leave; and clarify that an appointing authority is not required to give prior notice to an employee of a furlough.

Mr. Kevin Forsch and **Mr. Jeff Bloomberg** reviewed the proposed rules. The proposed change to ARSD 55:01:12:05 (to clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent) was withdrawn.

Public Testimony

Mr. Mark Anderson, Sioux Falls, South Dakota State Federation of Labor, spoke in opposition to the proposed rules regarding the appeals process and notice requirements for furloughs.

Mr. Corey Landeen, Pierre, South Dakota State Employees Organization, also spoke in opposition to the proposed rules regarding the appeals process and the removal of notice for emergency furloughs.

A discussion was held regarding the process that must be followed when there is a layoff and the recourse that a career service employee would have if the process was not followed.

Senator Hunhoff moved, seconded by Senator Vehle, to approve the rules proposed by the Bureau of Personnel: Career Service Commission.

Representative Gibson moved a substitute motion, seconded by Representative Tornow, to not approve the rules proposed by the Bureau of Personnel: Career Service Commission. Substitute motion failed on a roll call vote with 2 ayes, 3 nays, 1 excused. Members voting aye: Gibson and Tornow. Members voting nay: Hunhoff, Hunt, and Vehle. Member excused: Buhl.

Senator Hunhoff's motion prevailed on a roll call vote with 3 ayes, 2 nays, 1 excused. Members voting aye: Hunhoff, Hunt, and Vehle. Members voting nay: Gibson and Tornow. Member excused: Buhl.

Bureau of Personnel – Repeal rules governing the Governor's Senior Prescription Drug Program of 2003.

Mr. Bloomberg reviewed the proposed rules.

Representative Tornow moved, seconded by Senator Hunhoff, to approve the rules proposed by the Bureau of Personnel. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Department of Labor and Regulation – Amend Unemployment Compensation rules to repeal obsolete provisions, clarify when unemployment insurance claims are effective, and modify the requirement to search for new employment when receiving benefits

Mr. Don Kattke reviewed the proposed rules.

Representative Gibson moved, seconded by Senator Hunhoff, to approve the rules proposed by the Department of Labor and Regulation. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Department of Game, Fish and Parks – Adopt an Application for License rule to establish a rule authorizing antlerless deer licenses established by SDCL 41-6-19.8 to be issued to qualifying farmers and ranchers for use in the West River, East River, Youth, Archery, and Muzzleloading deer hunting units where at least one antlerless deer tag is available after the second lottery drawing from the previous year's East River and West River deer seasons; amend a License Forms and Fees rule to increase by \$90.00 the license fee for all nonresident big game licenses that are valid for the taking of a buck; adopt a Hunting Requirements and Prohibited Methods rule to establish air gun ammunition and performance specifications for hunting cottontail rabbit, squirrel, and species defined as a predator/varmint; amend Fall Wild Turkey Hunting Season rules to establish the number of licenses available; amend Waterfowl Hunting Seasons (Goose Hunting Season – August Management Take) rules to expand the open area to include Hanson, Lincoln, and Union counties, and remove the possession limit of 32 Canada geese; amend Black Hills Deer Hunting Season rules to establish the number of resident and nonresident licenses available; amend West River Prairie Deer Season rules to establish the number and types of resident and nonresident licenses/tags available, and repeal the rule which designates areas where free antlerless deer licenses can be issued to farmers and ranchers for use in West River deer hunting units, add three Limited Access Units to the West River Deer Hunting Season, combining two units and revising three units; amend Archery Deer Hunting Season rules to adjust the start date for Sand Lake NWR from November 1 to the third Saturday in October, adjust the end date for Waubay Lake State Game Refuge and Waubay NWR from January 15 to December 31, add Yankton County to those restricted areas where only one single "any antlerless deer" license is valid, and eliminate antlerless deer licenses in the Black Hills Fire Protection District; amend an Archery Antelope Hunting Season rule to establish the types of resident and nonresident licenses/tags available; amend a Youth Deer Hunting Season to allow hunters to purchase up to two youth deer licenses, with only one youth deer license valid within the Black Hills Fire Protection District; amend a General Muzzleloading Deer Hunting Season rule to add Yankton County to those restricted areas where only one single "any antlerless deer" license is valid and eliminate antlerless deer licenses in the Black Hills Fire Protection District; amend Furbearer Season rules to shorten the period in which a hunter or trapper harvesting a bobcat after the close of the season must notify a conservation officer or wildlife damage specialist to within 24 hours of harvest, clarify that once a bobcat pelt has been registered and tagged by the department, the tag only pertains to raw pelts (tanned pelts or mounted bobcats will not be required to have a department tag attached); change season dates for mink, weasel, muskrat, beaver, raccoon,

and bobcats, and prohibit muskrat trapping on Sand Lake National Wildlife Refuge and Waubay National Wildlife Refuge; amend a Trapping Prohibitions (Water-sets prohibited – exceptions) rule to allow persons West River (excluding the Black Hills Fire Protection District south of Interstate 90 and west of SD Highway 79) to use body grip or killer type traps (as water sets) within 30 feet of water to remove unwanted beavers; and amend Private Shooting Preserves rules to change all references to "operator" to "permittee" and clarify that mandatory attendance at the annual training and information meeting is only required for new preserve permittees.

Mr. Tony Leif reviewed the proposed rules.

Representative Hunt moved, seconded by Representative Gibson, to approve the rules proposed by the Department of Game, Fish and Parks. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Department of Game, Fish and Parks – Adopt an EMERGENCY rule to amend ARSD 41:07:06:03.01 for the purpose of canceling the 2011 Archery Paddlefish Season. *(For informational purposes only – no committee action will be taken.)*

Mr. Leif explained the need for the proposed emergency rule.

Department of Transportation – Amend a speed zone in Sioux Falls on Interstate Highway 90 to reduce the speed limit to 65 mile per hour west of the new Marion Road interchange; amend a speed zone in Sioux Falls on Interstate Highway 229 to reduce the speed of vehicles at the approach to the Interstate 90 entrance ramps; adopt a new speed zone in Sioux Falls on Interstate Highway 229 to provide a step-down speed approaching the existing Minnehaha County Road 125; amend a speed zone in the town of Lake Norden in Hamlin County on State Highway 28 to reduce speeds adjacent to commercial and residential areas in the city limits and the curves near the lakes; and repeal a speed zone in Minnehaha County on Interstate Highway 229 that is being incorporated into the new 70:01:02:00(5).

Mr. Bill Nevin reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hunt, to approve the rules proposed by the Department of Transportation. Motion prevailed on a roll call vote with 4 ayes, 1 nay, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, and Vehle. Member voting nay: Tornow. Member excused: Buhl.

Next Meeting Schedule

The next meeting of the Interim Rules Review Committee will be a DDN meeting held on August 30, 2011.

Adjournment

Representative Hunt moved, seconded by Representative Gibson, that the meeting be adjourned. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Gibson, Hunhoff, Hunt, Tornow, and Vehle. Member excused: Buhl.

Chair Hunhoff adjourned the meeting at 12:24 p.m.



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