

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

883D0002

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB13** - 1/21/00

Introduced by: Senators Bogue, Dennert, and Shoener and Representatives Michels, Cerny,
and Smidt at the request of the Interim Rules Review Committee

1 FOR AN ACT ENTITLED, An Act to revise the procedure to adopt administrative rules.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 1-26-4.3 be amended to read as follows:

4 1-26-4.3. No permanent rule may be adopted if more than seventy-five days have passed
5 from the date the public hearing on the rule commenced. The agency shall appear before the
6 interim rules review committee and present the proposed permanent rule to the committee within
7 the seventy-five day period before the rule is filed with the secretary of state. If the interim rules
8 review committee fails to meet on the proposed permanent rule during the seventy-five day
9 period, and if the agency has complied with subdivisions 1-26-6(1) to 1-26-6(4), inclusive, the
10 agency may complete the rules adoption process by complying with subdivision 1-26-6(5)
11 notwithstanding subdivision 1-26-6(6). No emergency rule may be adopted if more than thirty
12 days have passed from the date the notice of intent to adopt an emergency rule was published
13 in the manner prescribed in § 1-26-4.1.

14 Section 2. That § 1-26-6 be amended to read as follows:

15 1-26-6. The adoption, amendment, or repeal of a rule is complete when:

16 (1) Ten days have passed since all the requirements of § 1-26-4 have been completed or,

1 if the rule is an emergency rule, three days have passed since all the requirements of
2 § 1-26-5 have been complied with;

3 (2) It has been signed by a majority of the members of the multi-member body or by the
4 officer having the authority to adopt it;

5 (3) It has been signed by the director;

6 (4) A copy has been filed with the director, in a form prescribed by the director to show
7 amendments, deletions, and other changes to existing rules, for use in preparation of
8 copy for the Administrative Rules of South Dakota; ~~and~~

9 (5) The rule and a certificate have been filed with the secretary of state. The certificate
10 shall affirm that the rule filed is a true and correct copy of the rule as adopted and that
11 the agency has complied with § 1-26-4 or 1-26-5, and with this section; and

12 (6) For a permanent rule, the agency has appeared and presented the proposed rule to the
13 interim rules review committee.

14 Certificates required by this section shall be affidavits executed, under oath, by the officers
15 authorized by statute to promulgate the rule. If a rule is promulgated by a multi-member body,
16 the certificate shall be signed by its presiding officer.

17 Emergency rules are provisionally effective immediately after being filed. Notwithstanding
18 § 15-6-6(a), all other rules are provisionally effective on the twentieth day after being filed, not
19 counting the day of filing. In either case a later effective date may be specified as part of the rules
20 being filed. A rule which is not yet effective or a provisionally effective rule may be suspended
21 in the manner specified by § 1-26-38 any time prior to the first day of July of the year following
22 the year in which it became, or would have become, effective. The rule's provisional status ends
23 at that time, and it may not thereafter be suspended by the rules committee. Unless suspended,
24 a provisionally effective rule shall be enforced by the agency and the courts as if it were not so
25 conditioned.

1 No rule adopted after June 30, 1975, is valid unless adopted in compliance with § 1-26-4 or
2 1-26-5, and this section and copies of it are made available to the public upon request, by the
3 agency.

4 Section 3. That § 1-26-1.2 be amended to read as follows:

5 1-26-1.2. The interim rules review committee shall choose a ~~chairman~~ chair from its members
6 and prescribe its rules of procedure. Meetings of the committee shall be at the call of the
7 ~~chairman~~ chair or a majority of the committee.

8 On or before the first Monday following the last day of the legislative session, the committee
9 and the agencies shall determine a schedule of dates for meetings to be held during the following
10 twelve months. However, the committee is not required to hold a meeting if no proposed rules
11 have been filed pursuant to subdivision 1-26-6(4) prior to the meeting.

12 The committee shall review all proposed agency rules and make recommendations to the
13 agencies regarding rules and legislation authorizing rules and to the Legislature regarding
14 administrative law. All meetings, regular or special, shall be open to the public and any interested
15 person may be heard and present evidence.

16 Members of the committee shall be compensated for their attendance at meetings and for
17 time spent in conduct of committee business at rates established by the Executive Board of the
18 Legislative Research Council. The director of the Legislative Research Council, or one or more
19 persons from ~~his~~ the director's office, shall act as secretary to the committee, or the committee
20 may employ a secretary.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to State Affairs. S.J. 16

3 1/14/00 Scheduled for Committee hearing on this date.

4 1/17/00 Scheduled for Committee hearing on this date.

5 1/19/00 Scheduled for Committee hearing on this date.

6 1/21/00 Scheduled for Committee hearing on this date.

7 1/21/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 134

8 1/21/00 State Affairs Place on Consent Calendar.