

AN ACT

ENTITLED, An Act to revise certain provisions relating to contested cases under the Administrative Procedures Act and the Office of Hearing Examiners.

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

Section 1. That § 1-26-18.3 be amended to read as follows:

1-26-18.3. In any contested case, if the amount in controversy exceeds two thousand five hundred dollars or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request no later than ten days after service of a notice of hearing issued pursuant to § 1-26-17.

Section 2. That § 1-26D-10 be amended to read as follows:

1-26D-10. Within ten days after written notification to the parties of the appointment of a hearing examiner in any contested case, any party to that contested case may file an affidavit requesting the appointment of another hearing examiner. The chief hearing examiner shall then appoint another hearing examiner to hear that contested case. Each party may file only one such affidavit in any contested case.

Section 3. That § 1-26-17 be amended to read as follows:

1-26-17. The notice shall include:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished;

- (5) A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing, whether it be the revocation of a license, the assessment of a fine or other effect;
- (6) A statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;
- (7) A statement that if the amount in controversy exceeds two thousand five hundred dollars or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to § 1-26-17;
- (8) A statement that the decision based on the hearing may be appealed to the circuit court and the State Supreme Court as provided by law.

An Act to revise certain provisions relating to contested cases under the Administrative Procedures Act and the Office of Hearing Examiners.

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I certify that the attached Act originated in the

SENATE as Bill No. 177

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 177
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State