

# REGISTER

*South Dakota Legislative Research Council*



*Volume 32*

*Monday, 8:00 a.m., April 3, 2006*

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**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Health: Board of Massage Therapy:*** (March 28, 2006) intends to adopt rules to provide for general rules of board governance, provide for applications and licenses for qualified massage therapists, to set fees for licenses and other functions of the board, to provide continuing education requirements, set standards for disciplinary proceedings, and set malpractice insurance limits for massage therapists. The general authority for these rules, as cited by the board, is SDCL 36-35-24.

A public hearing will be held in Room 412, 4<sup>th</sup> floor, State Capitol, Pierre, South Dakota, on April 18, 2006, at 10:00 a.m. to consider the adoption of the proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Massage Therapy, P.O. Box 7251, 107 W. Missouri, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the board's website: <http://www.state.sd.us/doh/Massage/index.htm>. Material sent by mail must reach the board by April 18, 2006, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 224-8803 at least 48 hours before the hearing.

***Secretary of State: Board of Elections:*** (March 28, 2006) intends to amend rules to change the type of identification number required when registering to vote; reduce the number of instructions to voters posters placed

at each polling place; list a specific type of marking device for a voter to use when marking an optical scan ballot as found on the instructions to voters posters and in the voting booths; amend the type of photo identification required to vote on the voter identification sign; amend the form of ballot for Constitutional amendments; list specific type of marking device for a voter to use in the instructions on the optical scan ballot; amend the form for Supreme Court justice retention ballot; amend the form for an initiated measure and a referred law ballot; amend an office title on the Primary ballot to be consistent to the General ballot and amend the color code options used for the Primary ballot; amend the format for a municipal question ballot; amend the color code options used for statewide secondary elections; add a procedure to test an electronic ballot marking system and clarify when instructions to voters using optical scan ballots can be provided; amend the type of photo identification required to request an absentee ballot; delete effective date specifications for the instructions to voters; repeal conflicting voter's intent determination process; provide a tax levy opt-out ballot; provide a petition for referring a tax levy opt-out; add the procedure for the testing of the electronic ballot marking system; and add a combined absentee ballot application/return envelope for in-office absentee ballots. The general authority for these rules, as cited by the office, is SDCL 12-1-9, 12-17B-17, 12-19-2, and 12-20-52.

A public hearing will be held on Digital Dakota Network (DDN) on April 28, 2006, at 8:00 a.m. Central Time at the following DDN locations: State Capitol, 500 East Capitol, Room B12, Pierre, South Dakota 57501; South Dakota School of Mines and Technology, 501 East

Saint Joseph Street, Rapid City, South Dakota 57701; University of South Dakota State University, 2204 Career Place, Sioux Falls, South Dakota 57107; and Huron Middle School, 1045 18<sup>th</sup> Street SW, Huron, South Dakota 57350. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Election Department, 500 East Capitol, Pierre, South Dakota 57501 or the proposed rules may be obtained at [www.sdsos.gov/boe.htm](http://www.sdsos.gov/boe.htm). Written comments must be received on or before April 26, 2006, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

## FILINGS IN THE SECRETARY OF STATES OFFICE:

### Executive Order:

The Governor has signed **Executive Order 2006-02** dated March 28, 2006. This order declares that the offices for state government, within the executive branch, shall be administratively closed for the afternoon of Friday, April 14, 2006.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

## REMINDER OF HEARINGS SCHEDULED

4-4-2006	Environment and Natural Resources: Operator Certification Program	Amend rules to modify the experience requirement for a water/wastewater operator that does not have applicable post-high school education in order to become certified as a Class III or IV operator. Applicable post-high school education includes "college or vocational school majoring in engineering, environmental sciences, or related fields"; 32 SDR 135.
4-5-2006	Labor: Retirement System	Amend rules to comply with federal law in regard to certain purchases of service credit, to establish presumptions in regard to a member's total severance of employment, to amend disability rules in regard to an employer's ability to accommodate a disabled employee, to define "earned income" for disability payment purposes, to identify void ballots in trustee elections, to clarify the administration of certain court orders, and to provide for a right of review of staff decisions; 32 SDR 153.
4-6-2006	Game, Fish and Parks	Amend Hunting License fees to establish the fee for a Custer State Park 1-tag and 2-tag antlerless deer license; amend Custer State Park Deer Hunting Season to establish the number/types of deer licenses/tags available in Custer State Park; amend Application for

		License to modify procedures and applicability of issuance and maintenance of preference points to qualified landowners who are unsuccessful for first choice units in the first drawing; amend Archery Elk Hunting Season to establish the number/types of licenses/tags available in applicable archery hunting Units; amend Black Hills Elk Hunting Season to establish the number/types of licenses/tags available in applicable hunting Units; amend Prairie Elk Hunting Season to establish the number/types of licenses/tags available in applicable and modified hunting Units; modify the hunt Units in Bennett County and establish the hunting season dates within the Bennett County hunting Units; amend Mountain Goat Hunting Season to modify the hunting season dates; amend Black Hills Bighorn Sheep Hunting Season to modify the hunting season dates; amend Grouse Hunting Season to modify the shooting hours (sunrise to sunset) for the hunting season – statewide; amend Pheasant Hunting Season to modify (lengthen) hunting season in Unit 2; amend Resident Pheasant Hunting Season to remove reference to bag limits relating to the youth pheasant season; amend Gray Partridge Hunting Season to modify the shooting hours (sunrise to sunset) for the hunting season – statewide; amend Cottontail Rabbit Hunting Season to make modifications to the hunting season; amend Mourning Dove Hunting Season to make modifications to the hunting season and remove the Eurasian collared dove from the classification of a mourning dove; and amend Dog Training to repeal the dog training prohibitions applicable to certain portions of the Fort Pierre National Grasslands and school and public lands and repeal the permitted and conditional use of horses in the training of dogs on public land; 32 SDR 157.
4-12-2006	Agriculture	Amend rules to maintain interstate shipment of milk and milk products and maintain a safe and wholesome dairy product for the consumer; 32 SDR 150.
4-12-2006	Agriculture: Weed & Pest Commission	Amend a rule to add Field Bindweed and remove Salt cedar from the local noxious weed list; 32 SDR 150.

4-18-2006	Health: Board of Massage Therapy	Adopt rules to provide for general rules of board governance, provide for applications and licenses for qualified massage therapists, to set fees for licenses and other functions of the board, to provide continuing education requirements, set standards for disciplinary proceedings, and set malpractice insurance limits for massage therapists; 32 SDR 167.
4-19-2006	Environment and Natural Resources: Board of Minerals and Environment	Adopt revisions to federal regulations for the air pollution control program including reinforce plastic composites production, stationary turbines, stationary reciprocating internal combustion engines, and industrial, commercial, and institutional boilers and process heaters; 32 SDR 153.
4-19-2006	Personnel: Career Service Commission	Amend rules to allow for a simplified, expedited appeals procedure under the career service rules and to clarify the time limitations for filing appeals; and to clarify the procedures relating to career service employees who may have become afflicted with a contagious disease; 32 SDR 153.
4-20-2006	Human Services: Certification Board for Alcohol & Drug Professionals	Adopt rules to establish requirements for the certification process as it relates to alcohol and drug professionals in South Dakota; to define terms used within the article; to define certification and recognition levels as it relates to certified alcohol and drug professionals and trainees; application process; fee schedule; academic and experience requirements; define the supervision requirements and duties; define the examination process; continuing professional training requirements; requirements for renewal, upgrade or change of status; complaint process; and national certification and reciprocity; 32 SDR 157.
4-20-2006	Revenue and Regulation: Division of Insurance	Amend rules to require prominent and clear disclosures in Credit Life, Health, and Unemployment Insurance applications and documents; to allow producers to obtain continuing education credit through company sponsored courses; to exempt certain life insurance riders from long term care requirements; to allow a person who maintained a physical residence in South Dakota for at least one year in the prior ten years remain eligible for the South Dakota risk pool; and to require enrollees with the South

		Dakota Risk Pool board to pay their amounts due to medical providers as a condition of continued eligibility; 32 SDR 158.
4-27-2006	Labor: Division of Labor and Management	Amend the workers' compensation fee schedule; 32 SDR 157.
4-28-2006	Secretary of State: Board of Elections	Amend rules to change the type of identification number required when registering to vote; reduce the number of instructions to voters posters placed at each polling place; list a specific type of marking device for a voter to use when marking an optical scan ballot as found on the instructions to voters posters and in the voting booths; amend the type of photo identification required to vote on the voter identification sign; amend the form of ballot for Constitutional amendments; list specific type of marking device for a voter to use in the instructions on the optical scan ballot; amend the form for Supreme Court justice retention ballot; amend the form for an initiated measure and a referred law ballot; amend an office title on the Primary ballot to be consistent to the General ballot and amend the color code options used for the Primary ballot; amend the format for a municipal question ballot; amend the color code options used for statewide secondary elections; add a procedure to test an electronic ballot marking system and clarify when instructions to voters using optical scan ballots can be provided; amend the type of photo identification required to request an absentee ballot; delete effective date specifications for the instructions to voters; repeal conflicting voter's intent determination process; provide a tax levy opt-out ballot; provide a petition for referring a tax levy opt-out; add the procedure for the testing of the electronic ballot marking system; and add a combined absentee ballot application/return envelope for in-office absentee ballots; 32 SDR 167.

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Wednesday, April 19, 2006, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2006 interim: May 16, June 13, August 29, September 28, December 5, and January 8, 2007.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.