

# REGISTER



## *South Dakota Legislative Research Council*

*Volume 39*

*Monday, 8:00 a.m., October 29, 2012*

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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 Chiropractic Examiners:*** (October 25, 2012) intends to amend rules to clarify language regarding the use of contracts; implement use of informed consent; update language in advertising and solicitation to include social media; update composition and qualifications of ethics, disciplinary and peer review committee members; repeal chapter regarding chiropractic facilities; and correct a typographical error in peer review procedure. The general authority for these rules, as cited by the board, is SDCL §§ 34-13-11, 36-2-16, 36-5-4, 36-5-15.2, 36-5-19, 36-5-20, and 36-5-21.

A public hearing will be held at the Holiday Inn Express, Abbott Meeting Room, 2501 South Shirley, Sioux Falls, South Dakota, on December 1, 2012, at 8:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Chiropractic Examiners, 407 Belmont Avenue, Yankton, South Dakota 57078. Written comments must be received by November 23, 2012, to be considered. Copies of the proposed rules may also be obtained without charge at the board's website:

<http://chiropractic.sd.gov>. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 668-9017 at least forty-eight hours before the hearing.

***Secretary of State: Board of Elections:*** (October 26, 2012) intends to amend rules to

implement legislation concerning the voting rights of those serving a sentence for a felony conviction; update the voter registration form; implement legislation concerning vote centers; and allow the person in charge of the election to designate the ballot face on the ballot. The general authority for these rules, as cited by the board, is SDCL § 12-1-9, 12-4-35, and 12-14-17.

A public hearing will be held at the Capitol University Center, 925 E. Sioux Avenue, Room 200M, Pierre, South Dakota, on November 15, 2012, at 9:00 a.m. Additional public meeting space will be available at the South Dakota School of Mines and Technology, 501 E. St. Joseph Street, Room 109, Classroom Building, Rapid City, South Dakota, and at the University Center, 4801 N. Career Avenue, Room 145, Administration Building, Sioux Falls, South Dakota. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501. Written comments must be received on or before November 14, 2012, 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 STATE'S OFFICE:**

#### **Executive Appointments:**

**Nancy J. Allard**, Pierre, was reappointed on October 18, 2012, to the **Council of Juvenile Services**, effective immediately and shall

continue until October 30, 2015.

**Rebecca A. Bedard**, Sioux Falls, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Kelsey Lambert, effective immediately and shall continue until October 30, 2014.

**Jeff W. Davis**, Rapid City, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Janine Kern, effective October 31, 2012, and shall continue until October 30, 2015.

**James A. Feller**, Blunt, was reappointed on October 18, 2012, to the **State Board of Veterinary Medical Examiners**, effective immediately and shall continue until October 30, 2015.

**Arlene H. Ham Burr**, Rapid City, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Shawna Fullerton, effective immediately and shall continue until October 30, 2014.

**Douglas J. Herrmann**, Rapid City, was reappointed on October 18, 2012, to the **Council of Juvenile Services**, effective immediately and shall continue until October 30, 2015.

**Jacob S. Kabrud**, Rapid City, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Tanner Starr, effective October 31, 2012, and shall continue until October 30, 2015.

**Mike H. Leidholt**, Pierre, was reappointed on October 18, 2012, to the **Council of Juvenile Services**, effective immediately and shall continue until October 30, 2015.

**James H. Myers**, Belle Fourche, was reappointed on October 18, 2012, to the **State Board of Veterinary Medical Examiners**, effective immediately and shall continue until

October 30, 2015.

**Betty L. Oldenkamp**, Sioux Falls, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Susan Randall, effective October 31, 2012, and shall continue until October 30, 2015.

**Lyndon T. Overweg**, Mitchell, was appointed on October 18, 2012, to the **Council of Juvenile Services**, to replace Joanna Vitek, effective October 31, 2012, and shall continue until October 30, 2015.

**Virgena R. Wieseler**, Pierre, was reappointed on October 18, 2012, to the **Council of Juvenile Services**, effective immediately and shall continue until October 30, 2015.

**Lawrence L. Zimmer**, Montrose, was reappointed on October 18, 2012, to the **State Board of Veterinary Medical Examiners**, effective immediately and shall continue until October 30, 2015.

**Patrick T. Smith**, Davison County, was appointed on October 22, 2012, as Judge of the First Judicial Circuit Court of South Dakota, effective immediately upon taking the oath of office and shall continue until December 31, 2014.

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**

10-30-2012	Public Safety: 911 Coordination Board	Amend rules to repeal surcharges procedures which are outdated under current law; make the State 911 Board the authority on accepting emergency medical dispatch programs rather than Law Enforcement Training; specify that all annual fiscal reports must be submitted to the State 911 Board by March 31 <sup>st</sup> of each calendar year; address when 911 surcharge funds may or may not be used for communication equipment and physical addressing costs; and set forth the procedure for determining public answering points' compliance with rules to receive 911 funds as set forth in SDCL § 34-45-8.5; 39 SDR 63.
11-1-2012	Game, Fish and Parks	Amend Park Licenses rules to increase the annual park entrance license fees; amend Camping Permits and Rules to add South Scalp Creek, White Swan and Walth Bay lakeside use areas to the list of areas that require a basic campground fee, increase the daily group lodge fee at Mina State Recreation Area and at Shadehill State Recreation Area and increase the daily group lodge fee at Lake Thompson State Recreation Area, Palisades State Park and Newton Hills State Park, and repeal ARSD §§ 41:03:04:09 and 41:03:04:10.01 and modify ARSD § 41:03:04:10 to establish one rule pertaining to campsite occupancy; amend License Forms and Fees rules that would increase the following nonresident license fees: Small Game, Shooting Preserve (annual), Shooting Preserve (1 day), Shooting Preserve (5 day), Waterfowl (10 day /annual), and Waterfowl (3 day); amend General Provisions rules that would repeal authorizing use of artificial lights while fishing with legal methods; amend Fishing Season rules that would amend the section pertaining to special management waters; amend Fish Limits rules that would repeal the rule which provides that a one-day fishing licensee can possess no more than one day's limit of fish; modify ARSD § 41:07:03:03 (daily, possession, and length limit restrictions on special management waters) and in Lake Oahe, the daily limit for walleye, sauger, walleye-sauger hybrids. Or

		<p>combinations thereof is 8 and of the walleye taken daily no more than four may be 15 inches or greater in length, with a possession limit of 24; amend Snagging of Paddlefish rules that would remove transportation restrictions on paddlefish harvested during the May season on Lake Francis Case; amend Spearing rules that would repeal the rule section pertaining to the season and areas open to taking of catfish without limit, modify the rule section pertaining to areas open to spearing of game fish, and add language allowing a year-round season for take of catfish on the Missouri river system; amend Hoop Nets and Setlines rules to repeal the rule establishing the minimum length of catfish which may be taken by hoop net, trap, or setline, repeal the rule which prohibits use of baitfish and establishes specific types of bait which may be used on setlines, lengthen the season from May 1 through October 31 to year-round for all South Dakota inland waters open to hoop net or setline use, and expand areas on the mainstream Missouri River system open to use of hoop nets and setlines; amend Turtles rules to clarify that legal methods of taking turtles include "legal spears" and turtle traps; amend Bait (waters open to taking of bait) rules to change the heading of the rule section to "Waters <u>closed</u> to the taking of bait" and close certain waters to the commercial and noncommercial taking of bait by those methods listed in ARSD § 41:09:04:04; amend a Bait (seines, nets and traps limited) rule that would clarify that the department may issue permission to use seines, nets and traps larger than those specified in the current rule in association with the department's approval to stock public waters with white suckers for rearing and harvest; amend a Bait (transportation by dealers – inspection) rule that would repeal ARSD § 41:09:04:11; amend Bait (transportation of other fish by bait dealer) rules that would change the heading of the rule section (ARSD § 41:09:04:12) to "Transportation of <u>bait and</u> other fish by bait dealer" and add a provision which requires</p>
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		transportation equipment to allow for inspection of bait and other fish at all times; amend a Bait (records required) rule to provide bait dealers the option to prepare and maintain required records in an electronic format; amend Aquatic Nuisance Species rules to add certain species to the list of aquatic nuisance species and modify the current rules pertaining to watercraft restrictions and aquatic nuisance species inspections (ARSD § 41:10:04:03) by separating it into two rules; 39 SDR 67.
11-7-2012	Health: Health and Medical Services	Update rules to be reflective of industry standards; 39 SDR 67.
11-14-2012	Labor and Regulation: Unemployment Insurance	Amend rules to change the name from Department of Labor to the Department of Labor and Regulation and to change the General Authority and Law Implemented citations so they correctly refer to re-numbered statutes. Two changes of substance increase the amount of unpaid employer contributions due before the Department begins collection action from \$5 to \$25 and consider participation by an unemployment benefit applicant in a Department approved reemployment services program to be "actively seeking work"; 39 SDR 67.
11-15-2012	Secretary of State: Board of Elections	Amend rules to implement legislation concerning the voting rights of those serving a sentence for a felony conviction; update the voter registration form; implement legislation concerning vote centers; and allow the person in charge of the election to designate the ballot face on the ballot; 39 SDR 81.
12-1-2012	Health: Board of Chiropractic Examiners	Amend rules to clarify language regarding the use of contracts; implement use of informed consent; update language in advertising and solicitation to include social media; update composition and qualifications of ethics, disciplinary and peer review committee members; repeal chapter regarding chiropractic facilities; and correct a typographical error in peer review procedure; 39 SDR 81.
12-12-2012	Board of Regents	Amend rules to allow students an opportunity to complete coursework in Career and Technical education, allow for students pursuing alternative forms of instruction to establish initial eligibility in the program, and provide eighth semester funding to students

		who graduate a semester early; 39 SDR 75.
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### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 13, 2012, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2012 interim: December 19.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.