



Legislative Research Council

RULES REVIEW COMMITTEE AGENDA

Senator Orville B. Smidt, Chair
Representative Roger W. Hunt, Vice Chair

Two hundred ninety-second meeting
Tuesday
December 2, 2008

Room 413
State Capitol
Pierre, South Dakota

*Agencies are asked to have a representative present at the meeting
to give background information on their rules.*

8:00 a.m. Call to order, roll call, approval of minutes, staff report

8:05 a.m. Review of proposed rules

Representative Hunt

Department of Labor: South Dakota Board of Accountancy – Amend rules to update references, amendments due to the computerization of the Uniform CPA Examination, clarification of lapsed license fees and late fees, and amendment to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009.

Secretary of State – Amend the notary public application to reflect the employer/business name and address for individuals residing in an out-of-state county bordering South Dakota that do business in South Dakota and to revise the wording of the oath. Additional revisions to the notary public application include adding the bond number, removing the countersigned signature and the statement "Approved by the South Dakota Attorney General." The rules will repeal the forms for notary public notification of change of name and request to correct record and notary public notification of change of seal and request to correct record and adopt the consolidated form for notary public request to change record.

Senator Hundstad

Department of Revenue and Regulation: Appraiser Certification Program – Amend rules to establish the appraiser classifications that may supervise state-registered appraisers, establish the responsibilities of the state-registered and supervising appraiser, establish the requirements of a supervising appraiser, establish the application for and renewal process for supervisor approval, allow acceptance of case studies or practicum courses approved by state appraiser regulatory agencies, establish the educational requirements for state-registered, state-licensed and state-certified residential appraisers for upgrade to each higher classification, remove the time limit

for education credit for state-registered appraisers, set up fees for supervisor approval application and renewal, institute disciplinary action authority for supervising appraisers failing to meet supervisory responsibilities, remove the requirement that a course must be approved in the state it is being offered in to receive acceptance by the secretary, and establish the requirement of a training course for supervisors and state-registered appraisers.

Department of Revenue and Regulation: Business Tax – Amend rules to correct the language of a rule and to comply with the Streamlined Sales Tax Agreement.

Department of Revenue and Regulation: Division of Insurance – Amend rules to update the sources referenced in rule and add genetic discrimination requirements and new plan standards to the Medicare supplement rules

Department of Revenue and Regulation: South Dakota Lottery Commission – Amend a rule to adopt changes to the Powerball and Power Play games recently approved by the 31 participating lotteries. These changes, to take effect after the drawing on January 3, 2009, include the addition of white ball numbers from 55 to 59 and deletion of red ball numbers from 42 to 39, changes in corresponding prize odds, increase in starting jackpot and making the match 5 prize with Power Play option a guaranteed \$1 million.

Department of Agriculture: South Dakota State Conservation Commission – Adopt rules to define the criteria for the award and selection process for the South Dakota Soil Conservation Award for the Award Winning Soil Conservation Farm.

Senator Hunhoff

Department of Health: Board of Nursing – Amend rules to place certain policies adopted by the Nurse Licensure Compact Administrators for implementing the Nurse Licensure Compact into the form of administrative rules, and change the requirement for nurse practitioners and nurse midwives to have direct personal collaboration with a physician for one half day a week or a minimum of one hour per ten hours of practice to twice per month.

Department of Human Services: Board of Examiners of Psychologists – Amend rules to provide board jurisdiction over certain supervisors; update the code of conduct; and limit internships to psychology internships.

Department of Human Services: Division of Rehabilitation Services – Amend Registration of Interpreters rules to add a notification procedure to the division and to the interpreter on any complaints received and an investigation procedure on those complaints; define the certification maintenance program and the certification maintenance cycle; repeal the rule regarding initial registration of South Dakota certified interpreter; add language to the EIPA certified interpreter initial registration regarding the length of time prior to registration that a rating was obtained; add language specifying the requirements that must be met to continue to be certified unless an extension is granted to the South Dakota or EIPA annual registration; add a rule allowing an extension on the certification maintenance cycle under certain circumstances; and increase the time period of when the hearing will be held from date of receipt of the request.

Representative Lust

Attorney General: Law Enforcement Officers Standards Commission – Amend rules to eliminate the requirement that in order to obtain a waiver of ARSD 2:01:02:01, a law enforcement agency must demonstrate that the agency's jurisdiction includes fewer than five hundred persons and that a waiver is necessary to maintain an adequate law enforcement staff; to provide for the submission of written reports regarding continuing educational hours of officers to the executive secretary of Law Enforcement Training; to specify that officers are to re-qualify every calendar year on a certified shooting course and that firearms instructors must comply with certain requirements pursuant to ARSD 2:01:06:17.05; to set December 31st as the time frame in which a certified law enforcement officer is required to meet continuing educational requirements; to update the Certification of Canine Teams Student Handbook; and to establish firearms instructor standards.

Department of Education: Board of Education – Amend rules to permit the state director of special education to appoint additional members to the complaint investigation team; give the Department flexibility in adding endorsements for certified teachers and administrators who were previously restricted due to preparations that did not match the perceived level of initial preparation; grant additional stand-alone certificates previously not issued; give individuals who completed principal programs or endorsements without the required three years of experience to have another option for certification, and to recognize an advanced degree that is over 10 years old as valid.

Representative Thompson

Department of Environment and Natural Resources: Water Management Board – Amend Ground Quality rules to require secondary containment and leak monitoring for new and replacement underground storage tank systems located within 1,000 feet of an existing community water system or any potable drinking water well, require department approved training for owners and operators of regulated underground storage tank systems and make it illegal for non-compliant underground storage tank systems to receive delivery of regulated substances.

Department of Social Services: Economic Assistance – Amend rules relating to the eligibility criteria for the Medical Services Program to specify what constitutes confidential information and establish the procedures to be followed when an individual or entity requests confidential information from the Department; when determining the value of a transferred asset, specify that the value of the transferred asset is the difference between the fair market value at the time of the transfer and the amount of compensation received, if any, unless the asset involved the purchase of a life estate or the purchase of stocks, notes, loans, or mortgages, in which case the Department applies the provisions of § 67:46:05:08.01 or 67:46:05:38, as applicable; clarify how the Department relates to the purchase of a life estate when the purchaser has lived in the home for a period of at least 12 consecutive months; specify those actions an individual (or someone acting on the individual's behalf) must take before the Department will consider waiving a period of ineligibility due to a transferred resource; when considering the value of life insurance policies, specify that the Department uses the face value of the policy and specify how the Department relates to dividends that revert to increase the policy death benefit and the cash surrender value; clarify that the Department treats an annuity as a resource first then, if the fair market

value does not cause ineligibility, the purchase of the annuity is considered as a transfer of an asset; and require the Department to notify an individual of the right to request a waiver of the period of ineligibility when the individual is ineligible for long-term care assistance due to the value of home property.

Department of Social Services: Office of the Secretary – Amend rules relating to administrative hearings for individuals or entities aggrieved by the Department's action or inaction. The proposed rules will clarify who can request an administrative hearing; repeal rules that duplicate other regulatory or statutory provisions; delete language that relates to the Department's internal procedures; specify the actions that an individual or entity must take to request a hearing; establish the time limit within which a child care provider or a recipient of child care services must request a hearing; allow the hearing examiner to determine if a hearing will be conducted by electronic means and remove the opportunity for a party involved in the action to request that a hearing not be held by electronic means; specify the information that is included in the notice of hearing; except for appeals involving medical assistance, allow an individual to orally withdraw his or her request for a hearing; allow the hearing examiner to dismiss a case if the case is resolved before the hearing examiner enters a final decision; delete the term "abandonment" and replace it with "default"; specify those circumstances under which a hearing is considered to be in a default situation and subject to dismissal; clarify those procedures used when working to resolve a case before a final decision is entered; specify who may attend a hearing; require a corporation to be represented at the hearing by its attorney; and allow a time extension for mailing the final decision if a continuance of a hearing is requested and the parties to the action stipulate to the continuance.

Department of Social Services: Food Stamps – Establish new parameters for the monthly gross and net income eligibility standards for food stamp households and to establish a household's maximum food stamp allotment based on the established thrifty food plan. (*This rule is adopted under the procedure provided in SDCL 1-36-20.*)

Committee Discussion of Draft Legislation

- Delegation of Legislative Authority (HB 1266 from the 2008 Legislative Session)
- Require the Small Business Impact Statement only when there is a fiscal impact.

11:20 a.m. Adjourn

Members: Senators Jean M. Hunhoff, Jim Hundstad, and Orville B. Smidt; and Representatives Roger W. Hunt, David Lust, and Bill Thompson.

NOTE: *Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/773-3251) in advance of the meeting to make any necessary arrangements.*



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