

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

883D0002

SENATE BILL NO. 13

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 § 1-26-1.2 be amended to read as follows:

4 1-26-1.2. The interim rules review committee shall choose a ~~chairman~~ chair from its members
5 and prescribe its rules of procedure. Meetings of the committee shall be at the call of the
6 ~~chairman~~ chair or a majority of the committee.

7 The committee shall review all proposed agency rules and make recommendations to the
8 agencies regarding rules and legislation authorizing rules ~~and~~. The committee may propose
9 amendments to the rules to be adopted by the agency. The committee may recommend legislation
10 to the Legislature regarding administrative law. All meetings, regular or special, shall be open
11 to the public and any interested person may be heard and present evidence.

12 Members of the committee shall be compensated for their attendance at meetings and for
13 time spent in conduct of committee business at rates established by the Executive Board of the
14 Legislative Research Council. The Director of the Legislative Research Council, or one or more
15 persons from ~~his~~ that office, shall act as secretary to the committee, ~~or the committee may~~
16 ~~employ a secretary.~~

1 Section 2. That § 1-26-4.3 be amended to read as follows:

2 1-26-4.3. No permanent rule may be adopted if more than seventy-five days have passed
3 from the date the public hearing on the rule commenced. The agency shall present the proposed
4 rule to the interim rules review committee within the seventy-five day period before the rule is
5 filed with the secretary of state. No emergency rule may be adopted if more than thirty days have
6 passed from the date the notice of intent to adopt an emergency rule was published in the manner
7 prescribed in § 1-26-4.1.

8 Section 3. That § 1-26-6 be amended to read as follows:

9 1-26-6. The adoption, amendment, or repeal of a rule is complete when:

- 10 (1) Ten days have passed since all the requirements of § 1-26-4 have been completed or,
11 if the rule is an emergency rule, three days have passed since all the requirements of
12 § 1-26-5 have been complied with;
- 13 (2) It has been signed by a majority of the members of the multi-member body or by the
14 officer having the authority to adopt it;
- 15 (3) It has been signed by the director;
- 16 (4) A copy has been filed with the director, in a form prescribed by the director to show
17 amendments, deletions, and other changes to existing rules, for use in preparation of
18 copy for the Administrative Rules of South Dakota; ~~and~~
- 19 (5) The rule and a certificate have been filed with the secretary of state. The certificate
20 shall affirm that the rule filed is a true and correct copy of the rule as adopted and that
21 the agency has complied with § 1-26-4 or 1-26-5, and with this section; and
- 22 (6) The agency has presented the proposed rules to the interim rules review committee.

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

1 Emergency rules are provisionally effective immediately after being filed. Notwithstanding
2 § 15-6-6(a), all other rules are provisionally effective on the twentieth day after being filed, not
3 counting the day of filing. In either case a later effective date may be specified as part of the rules
4 being filed. A rule which is not yet effective or a provisionally effective rule may be suspended
5 in the manner specified by § 1-26-38 any time prior to the first day of July of the year following
6 the year in which it became, or would have become, effective. The rule's provisional status ends
7 at that time, and it may not thereafter be suspended by the rules committee. Unless suspended,
8 a provisionally effective rule shall be enforced by the agency and the courts as if it were not so
9 conditioned.

10 No rule adopted after June 30, 1975, is valid unless adopted in compliance with § 1-26-4 or
11 1-26-5, and this section and copies of it are made available to the public upon request, by the
12 agency.

13 Section 4. That § 1-26-6.7 be amended to read as follows:

14 1-26-6.7. Once a rule has been adopted, it may ~~not~~ be amended, repealed, or suspended
15 ~~except by compliance~~ by complying with § 1-26-4, 1-26-4.7, 1-26-6. or 1-26-5, ~~and with~~
16 ~~§ 1-26-6~~, even if it has not taken effect.